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2 JOINT EPA/US ARMY CORPS OF ENGINEERS

3 NEW ENGLAND DISTRICT

4

5 PUBLIC HEARING before the Army Corps of
6 Engineers and the United States Environmental
7 Protection Agency, New England Region, held at
8 SUNY-Stony Brook, Charles B. Wang Asian-American
9 Center, Stony Brook, New York, September 30, 2003,
10 commencing at 1:00 p.m. to 4:00 p.m. and 7:00 p.m.
11 concerning:

12 DRAFT ENVIRONMENTAL IMPACT STATEMENT
13 DESIGNATION OF DREDGED MATERIAL DISPOSAL SITES IN
14 CENTRAL AND WESTERN LONG ISLAND SOUND,
15 CONNECTICUT AND NEW YORK

16

17 BEFORE:

18 Larry Rosenberg, as Moderator

19 Melville P. Cote, Jr., EPA

20 Mark Habel, Project Manager, US Army Corps of

21 Engineers

22

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1 P R O C E E D I N G S

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3 MODERATOR ROSENBERG: Good afternoon.

4 I'm Larry Rosenberg. I'm the Chief of Public
5 Affairs for the United States Army Corps of
6 Engineers in New England, and I would like to
7 welcome you to this public hearing held in
8 conjunction with the government's release of the
9 Draft Environmental Impact Statement for the
10 designation of dredged material disposal sites in
11 Central and Western Long Island Sound, Connecticut
12 and New York.

13 This hearing is being held in
14 accordance with the National Environmental Policy
15 Act for the sole purpose of listening to you.

16 Before we begin, I would like to thank
17 you for getting involved in this environmental
18 review process.

19 You see, we're here to listen to your
20 comments, understand your concerns, and to provide
21 you an opportunity to appear on the record should
22 you care to do so. This hearing is yours.

23 Our Hearing Officer today is Mr. Mel
24 Cote, Manager of the Water Quality Unit of the

1 Office of Ecosystem Protection for the
2 Environmental Protection Agency New England Region
3 that is headquartered in Boston, Massachusetts.

4 Other federal representatives with me
5 today are from the EPA: Jean Brochi and Ann
6 Rodney; and from the Corps: Mark Habel, our
7 Project Manager; Sue Holtham, the Army Corps' EIS
8 Manager; Dr. Tom Fredette, the Corps' New England
9 DAMOS Program Manager, who is responsible for
10 monitoring and managing all dredged material
11 disposal sites in and around New England; and the
12 staff of my Public Affairs Office, who you met as
13 you entered this facility.

14 The agenda today is following this
15 introduction, Mr. Cote will address the hearing.
16 He'll be followed by the Corps of Engineers'
17 Project Manager, Mark Habel, who will provide an
18 overview of the Corps' role and discuss the
19 recommended dredged material disposal with the
20 focus on the purpose and need of that designation.

21 Mark will then introduce Dr. Carlton
22 Hunt from Battelle, a contractor to the Army Corps
23 of Engineers; and Dr. Drew Carey from Coastal
24 Visions, who will make a 30-minute or so

1 presentation on the EIS process and his
2 recommendations.

3 I will then open this hearing to the
4 public comments utilizing the hearing protocols.

5 Should you need copies of the Federal
6 Register notice or those hearing protocols or other
7 pertinent information, it is available at those
8 registration tables outside.

9 I should point out that the government
10 has made no final decisions regarding the final
11 outcome of this very public process.

12 You know, as a direct result of the
13 comments and the concerns already raised by the
14 public, the EPA and the Corps has decided to extend
15 the public comment period for this Draft
16 Environmental Impact Statement by 21 days. The
17 comment period will now close on 17 November.
18 Further, EPA and the Corps may hold additional
19 public hearings on the draft in early November.

20 Before we begin, I'd like to remind you
21 of the importance of filling out these cards that
22 were available at the door. These cards serve two
23 purposes. First, they let us know that you're
24 interested in this project so we can keep you

1 informed. Second, they provide me a list of those
2 who wish to speak today.

3 If you did not complete a card, but
4 wish to speak or receive future information
5 regarding this project, one will be provided at in
6 the registration desk.

7 And one last comment. We are here to
8 receive your comments, not to enter into any
9 discussion of those comments, or to reach any
10 conclusion. Any questions you have should be
11 directed to the record and not to the individuals
12 on the panel.

13 Thank you.

14 Ladies and gentlemen, Mr. Cote.

15 HEARING OFFICER COTE: Thanks, Larry,
16 and good afternoon, everyone.

17 As Larry noted, my name is Mel Cote.
18 I'm the Manager of the Water Quality Unit in the US
19 Environmental Protection Agency's New England
20 Regional Office.

21 Thank you for coming to the public
22 hearing on the Draft Environmental Impact Statement
23 for the Designation of Dredged Material Disposal
24 Sites in Central and Western Long Island Sound.

1 Whether it's to voice support for, or concerns
2 about the federal action proposed in this Draft
3 EIS, or simply to learn more about the project, we
4 welcome your participation.

5 EPA published a Federal Register notice
6 and issued a press release on September 12th
7 announcing the availability of the Draft EIS for
8 public comment until October 27. We posted the
9 Draft EIS on the website and mailed notices and
10 copies of the Draft EIS and supporting documents
11 that most people should have received by September
12 15th. This is consistent with our ongoing efforts
13 throughout the EIS process to provide the public
14 with ample opportunity to get information about the
15 project and to give us their feedback. However, as
16 discussed by Larry, we've already received some
17 comments that the two weeks, and in some cases
18 less, provided to review the document prior to the
19 public hearings is inadequate for such a large
20 quantity of technical information. In response to
21 these concerns, we will extend the public comment
22 period until November 17th and may schedule
23 additional public hearings toward the end of the
24 comment period. We will formally announce this

1 extension through another Federal Register notice
2 and mailing within the next couple of weeks. That
3 said, we're here today to listen to and record any
4 comments you may have on the Draft EIS based on
5 your review so far.

6 The EPA and the US Army Corps of
7 Engineers jointly regulate dredged material
8 disposal under federal authorities provided by
9 Section 404 of the Clean Water Act and Section 103
10 of the Marine Protection, Research and Sanctuaries
11 Act, which is also known as the Ocean Dumping Act.
12 In administering these programs, we work closely
13 with other federal resource management agencies
14 like the National Marine Fisheries Service and US
15 Fish and Wildlife Service and state environmental
16 agencies to ensure proper coordination and
17 consistency with statutory and regulatory
18 requirements and environmental standards.

19 Since 1980, EPA and the Corps have been
20 applying the sediment testing requirements of the
21 Ocean Dumping Act to all federal projects and to
22 private projects generating 25,000 cubic yards of
23 dredged material or more. Dredged material that
24 meets these criteria and is determined to be

1 suitable for ocean disposal is disposed of at one
2 of the four sites that were evaluated and chosen as
3 disposal sites pursuant to programmatic and site
4 specific Environmental Impact Statements by the
5 Corps in 1982 and 1991. These sites are known as
6 the Western Long Island Sound, Central Long Island
7 Sound, Cornfield Shoals and New London disposal
8 sites.

9 In 1992, Congress added a new provision
10 to the Ocean Dumping Act that, for the first time,
11 established a time limit on the availability of
12 Corps-selected sites for disposal activity. The
13 provision allows the selected site to be used for a
14 five-year period beginning with the first disposal
15 activity after the effective date of the provision,
16 which is October 31st, 1992, and for an additional
17 five-year period beginning with the first disposal
18 activity commencing after completion of the first
19 five-year period. The use of the site can,
20 however, be extended if the site is designated by
21 EPA for long-term use. Thus, the Corps can select
22 disposal sites for short-term limited use; whereas,
23 Congress authorized EPA to undertake long-term site
24 designations subject to ongoing monitoring

1 requirements to ensure the site remains
2 environmentally sound.

3 Periodic dredging and, therefore,
4 dredged material disposal are essential for
5 ensuring safe navigation and facilitating marine
6 commerce. EPA believes it's preferable from an
7 environmental perspective to dispose of dredged
8 material in only a few discrete locations so that
9 it can be easily managed and monitored to reduce
10 the potential adverse impacts on the surrounding
11 marine environment. With a continuing need for
12 dredged material disposal sites and the impending
13 expiration of the short-term site selections by the
14 Corps for the four current dredged material
15 disposal sites in the Sound, the Corps was faced
16 with a prospect of having to continue to select new
17 disposal sites that could only be used for a
18 maximum of two- to five-year periods. In the
19 long-term, this would result in the proliferation
20 of disposal sites throughout the Sound, and that
21 that's why we're here today.

22 In 1998, EPA and the Corps agreed to
23 conduct a formal site designation process following
24 the criteria established in the Ocean Dumping Act.

1 We also agreed that consistent with past practice
2 in designating dredged material disposal sites, we
3 would follow EPA's "Statement of Policy for
4 Voluntary Preparation of National Environmental
5 Policy Act (or NEPA) Documents," and would prepare
6 an Environmental Impact Statement to evaluate
7 different dredged material disposal options. EPA
8 and the Corps have tried to prepare this Draft EIS
9 to be consistent with EPA's NEPA-implementing
10 regulations, as well as those promulgated by the
11 Council on Environmental Quality for additional
12 guidance. We began this effort in 1999, but were
13 slowed by both the technical complexities and the
14 financial constraints associated with a
15 large-scale, multiple-site project. In March 2002,
16 facing a prospect of losing the use of the Corps'
17 selected Central Long Island Sound Disposal Site,
18 which of the four in Long Island Sound is the most
19 heavily used, in February of 2004, when the second
20 of two five-year periods of use expires, EPA and
21 the Corps announced their intent to develop the EIS
22 in two phases: Western and Central Long Island
23 Sound first, followed by the eastern Sound, once a
24 site or sites had been designated in the western

1 and central regions. This approach would yield the
2 schedule to meet the important public need to
3 consider disposal sites in this region more
4 expeditiously without compromising the continued
5 objectivity of the decision-making process for each
6 region of the Sound.

7 Although EPA is the agency authorized
8 by the Ocean Dumping Act to designate dredged
9 material disposal sites, the Corps is participating
10 in the development of the EIS as a cooperating
11 agency, because it has knowledge concerning the
12 needs of the dredging program as well as technical
13 expertise in the area of assessing the
14 environmental affects of dredging and disposal. As
15 a result of the 1998 agreement between EPA and the
16 Corps, the Corps is also providing technical and
17 financial support in the development of the EIS,
18 but all final decisions regarding any site
19 designations will be made by EPA.

20 To take advantage of expertise held by
21 other entities and ensure compliances with all
22 applicable legal requirements, EPA also is closely
23 coordinating this effort with other federal
24 agencies, including the National Marine Fisheries

1 Service and Fish and Wildlife Service, Indian
2 tribal governments, state environmental and coastal
3 zone management agencies, and local governments,
4 some of which are also participating as cooperating
5 agencies. EPA and the Corps also have conducted
6 extensive public participation activities,
7 including numerous workshops and informational
8 meetings to explain the process and to disseminate
9 technical findings, and to solicit feedback from
10 the public to help guide the process.

11 We're here today to present information
12 on the Draft EIS that evaluates disposal options
13 for the western and central regions of Long Island
14 Sound and to solicit feedback on this document in
15 the federal action it proposes in the form of oral
16 or written comments. We encourage and welcome your
17 oral and written comments, but we will not be
18 responding to them here. These comments will be
19 given equal consideration upon completion of the
20 public comment period for the purposes of
21 finalizing the EIS and issuing final rulemaking.
22 The final EIS will include response to all
23 significant comments that we receive. For accuracy
24 of the record, your written comments should be sent

1 to Ann Rodney at the EPA New England Regional
2 Office. You should have the address. If you
3 don't, make sure you get it before you leave, and
4 it will be accepted until Monday, November 17th.

5 Thank you again for your participation
6 in this public hearing and for your interest in the
7 issue of dredged material management in Long Island
8 Sound.

9 MODERATOR ROSENBERG: Thank you, sir.
10 Ladies and gentlemen, Mark Habel.

11 MR. HABEL: Good afternoon. As Larry
12 stated, I'm Mark Habel. I'm the Corps' Project
13 Manager for this Environmental Impact Study.

14 In early 1998, EPA and the Corps began
15 their study of the need for and acceptability of
16 designating ocean disposal sites for dredged
17 material in Long Island Sound. An early part of
18 this effort involved examining the present and
19 long-term need for dredging from the ports and
20 harbors of the Sound in both Connecticut and New
21 York. There are more than 50 federal navigation
22 projects and hundreds of non-Federal public and
23 private navigation-dependent facilities on the
24 Sound that require periodic dredging to maintain

1 safe navigable depth. Vessels ranging from large
2 cargo carriers to small fishing and recreational
3 craft depend on adequate channel depths to operate.

4 Some material dredged from these
5 harbors is a clean sand, suitable for use as
6 nourishment of area beaches when available.
7 However, the majority of all material dredged from
8 the Sound's harbors has for many decades been
9 placed in open water sites in the Sound. Prior to
10 the 1980s, there were as many as 20 sites that
11 periodically received dredged material. Since that
12 time, only four sites have been in use and receive
13 on average about 1 million cubic yards of material
14 annually. All of this material must undergo a
15 series of rigorous physical, chemical and
16 biological testing to prove its suitability for
17 placement in the Sound.

18 An investigation into the economic
19 importance of navigation-dependent industries to
20 the Long Island Sound region found that these
21 industries contribute more than 52,000 jobs and
22 over \$1.5 billion annually to the economy of the
23 area. Dredging is key to the continued health of
24 this sector of the Connecticut and New York

1 economies.

2 Please take time, if you haven't
3 already, to examine the poster displays located in
4 the lobby, and look over the information provided
5 there. One of these showed the locations of the
6 several dredging centers located around the Sound.
7 It is these ports and harbors that generate the
8 economic benefit of navigation and the region's
9 dredged material.

10 The study we have completed focused on
11 a consideration of the impact on the natural and
12 human environment, including natural resources and
13 economics. It was concluded that the capacity of
14 non-in-water disposal alternatives cannot meet the
15 dredged material disposal needs of the Central and
16 Western Long Island Sound region. While individual
17 projects must assess nonopen-water alternatives on
18 a case-by-case basis, designation of one or more
19 open water dredged material disposal sites in Long
20 Island Sound is necessary to meet the long-term
21 regional needs of navigation in the Sound.

22 At this point, I would like to
23 introduce to you Dr. Carlton Hunt from Battelle and
24 Dr. Drew Carey of Coastal Vision. They will

1 together present a roughly 30-minute or 40-minute
2 presentation on EIS, the process we went through
3 and its recommendation.

4 DR. HUNT: Thank you, Mark.

5 Again, I am Carlton Hunt. I'm with
6 Battelle. We're going to walk through the
7 presentation that basically provides an overview of
8 the EIS process; secondly, to present the findings
9 of the Draft EIS, review the preferred alternatives
10 that are in this Draft EIS, and then convey the
11 next steps.

12 Throughout this presentation, you will
13 see the date of -- the comment period that has been
14 extended so you should substitute the date that we
15 have on here with what you've already heard this
16 morning.

17 Essentially, the decision to prepare
18 the EIS resulted in a Notice of Intent and a series
19 of scoping meetings. Those scoping meetings, along
20 with literature review and field studies, were used
21 to prepare the Draft EIS that you have before you.
22 In addition, there were a set of site management
23 and monitoring plans that were developed based on
24 the information that was gathered and interpreted

1 and evaluated. That's what you have in front of
2 you now, along with the proposed draft rule.

3 The comment period, we've talked about.
4 The public hearings, we're in the process of doing.
5 In the future will be to take that information,
6 look at those comments, respond to those comments,
7 prepare a final EIS, issue the final EIS, another
8 comment period, and ultimately, the final
9 rulemaking or Record of Decision.

10 What I'm going to do is turn this over,
11 the podium over to Drew Carey, who will talk about
12 the history of the process, and then I will pick up
13 the presentation again at the point of the
14 March 2002 decisions that you've heard about.

15 DR. CAREY: Thanks, Carlton.

16 As you've heard already, this program
17 began with discussions in 1998, with an initial
18 announcement of the project in 1999. I'm going to
19 run through the following four points, talking
20 about involvement with federal agencies, the public
21 and some of the studies that were conducted in the
22 first phase of this project.

23 As Mel mentioned, this was announced in
24 the Federal Register. It was a potential

1 designation of one or more open water disposal
2 sites in the Sound. And at this time, the
3 proponents, the agencies that felt that this was an
4 important action, began a cooperative activity with
5 other agencies, both federal and state.

6 I will tell you a little specifics
7 about how that consultation worked. There were
8 some initial meetings; and as the project carried
9 forward, meetings were continued to be held with
10 agencies as each sort of decision point came along.
11 I'm just going to run through a few of those.

12 One is that initially understanding
13 what the total history of disposal on Long Island
14 Sound had been was important for defining the scope
15 of the project. Agencies got involved in
16 discussing what the site designation process should
17 consist of and initiated the EIS scoping prior to
18 the public meeting so that there was some
19 discussion within the agencies followed by public
20 scoping meetings, where there was opportunity for
21 comment from the public. This allowed us to take
22 advantage of the expertise throughout the region,
23 both in the agencies and in the state and local
24 governments in terms of their understanding of data

1 that may be useful, areas where there may be
2 problems, and not enough data available at the
3 present time.

4 We defined something that is called a
5 Zone of Siting Feasibility at that time, which is
6 basically the area in which you might consider
7 designating a site.

8 Subsequent to that, there was
9 assessment or review of alternatives to open water
10 disposal, again discussed with agencies, followed
11 by studies, followed by public input.

12 After studies had been designed and
13 conducted, the initial findings of those -- the
14 data collection was also discussed with all the
15 agencies. They had an opportunity to look at that
16 in detail, again followed by public meetings and
17 further comment.

18 The same process continued with the
19 actual selection of alternatives, open water
20 alternative sites for review in the Draft EIS, and
21 eventually that discussion about preferred
22 alternatives, which is essentially what we're
23 presenting today, was initially an agency --
24 inner-agency discussion.

1 That inner-agency cooperation was
2 really paralleled by the public involvement. We
3 came up with a number of ways of doing this. First
4 of all, the process requires that you hold public
5 scoping meetings. Those were held throughout the
6 region, beginning in June of 1999 to inform the
7 public of what the project would entail and
8 received any comment about issues or concerns that
9 should be included in the study.

10 Then we initiated a series of public
11 workshops in October of '99. At that point,
12 talking about the dredging needs and alternatives,
13 the -- sort of the reason for this study, how the
14 site screening process might occur, what kind of
15 data may be collected, and looking at
16 recommendations for how we would evaluate the data
17 in order to select between sites. So that initial
18 set of public workshops was very important for
19 setting out the stage and the scale of what was
20 going to occur during the process.

21 At the same time, we determined it
22 would be effective to establish a more focused
23 volunteer working group that could address specific
24 issues, have more frequent meetings and bring

1 expertise that might be available in the marine
2 industry, in the local towns, environmental groups,
3 recreational groups, fishing interests, and any
4 individual who really cared to participate at that
5 time.

6 To give you a little sense of the
7 number of meetings that were held: Last October, a
8 public workshop was followed by another one in
9 April of 2000; and following that, we had a whole
10 series of working group meetings held at different
11 locations within the region, essentially starting
12 in July of 2000, followed up by one the following
13 year in 2001 and also in 2002. And then the pace
14 quickened a bit as the data began coming in and
15 more decisions and discussions were required
16 through 2000 and then recently here in 2003.

17 The initial studies that were defined
18 really by discussions with the agencies followed by
19 input from public involvement required field data
20 collection throughout the Sound and also
21 specifically at active disposal sites. It also
22 required some study of upland alternatives to
23 in-water disposal that might be considered. It
24 involved a study of existing treatment technologies

1 that have been studied very extensively in the New
2 York/New Jersey region, as well as a clear
3 assessment of dredging needs and the economic
4 significance of dredging -- or navigation-dependent
5 industries. I'm going to go through each of these
6 in a little bit more detail.

7 Following those meetings in 1999, the
8 EPA and the Corps developed a data collection
9 strategy. In 19 -- I'm sorry -- in 2000, we
10 collected sediment samples from the four existing
11 disposal sites. Mel has listed these already:
12 Western, Central, Cornfield and New London, these
13 are the active disposal sites. They provided an
14 opportunity to collect data, both regarding those
15 as a baseline and also to understand what the 20
16 year or the dredging history had occurred at those
17 sites. Each site has a little bit different
18 history. We were able to get some information
19 about consequences of that disposal history at each
20 of those sites.

21 Sediment samples were used for a whole
22 variety of purposes. We looked at both their
23 physical composition, what is the nature of the
24 site in terms of the sediment that occurs there,

1 the chemical composition of sediments within the
2 sites and near the sites, also whether that
3 sediment was toxic to specific organisms as part of
4 the EPA's protocols for testing and also what
5 organisms live within the sediments at those sites.

6 So the very focus sampling at sites and
7 other reference areas within the Sound was focused
8 on what we could understand about the accumulated
9 information in the sediments at those sites.

10 In addition, we designed a series of
11 studies to look at the biological conditions within
12 the Sound, so this was a Soundwide study where
13 fish, worm and clam samples were collected in
14 conjunction with an existing inshore trawl survey.
15 The Connecticut Department of Environmental
16 Protection has a long established inshore trawl
17 survey where they collect fish and samples in
18 trawls. We were able to piggyback on that project,
19 collect the fish for tissue analysis and also
20 analyze the data that they got from their program.

21 We also looked at sediment surveys in
22 relation to the tissue concentrations in these
23 organisms. We did some additional studies on
24 lobster patterns, lobster abundance and also tissue

1 throughout the Sound.

2 We took a further step and took the
3 existing data within that trawl survey, which
4 extended over a period comparable to the disposal
5 history of most of these active sites to look at
6 the community structure and abundance of finfish
7 species within the entire Sound and also
8 specifically what those population and
9 characteristics were like at different seasons and
10 different years at the existing disposal sites.

11 In order to understand what the scale
12 and nature of inwater disposal requirements might
13 be, it was also important to address whether there
14 were any alternatives to inwater disposal. A study
15 was conducted reviewing potential alternatives to
16 open water disposal. These include methods of
17 reuses of dredged material, upland use. It could
18 be things like covering landfill areas, taking some
19 of those sediments into asphalt as part of the
20 components of asphalt, redirecting material to
21 already contaminated industrial sites, which is
22 called a brownfield redevelopment or remediation,
23 looking in some cases whether there was material
24 that would be suitable for beach nourishment or

1 marsh restoration. In addition, we reviewed the
2 existing treatment technologies that have been
3 proposed for dredged material in order to remediate
4 the contaminants that may be in certain areas. In
5 the urban areas and in the harbors, there are
6 specific locations where dredged material is
7 sufficiently contaminated that it may be worth
8 looking at treatment technologies to either fix
9 that contaminant so that it's not biologically
10 available or remove it in some way. So these
11 technologies were reviewed as part of those initial
12 studies.

13 It's very, very important in conducting
14 a study like this to understand what your need
15 actually is. How much dredged material is actually
16 needing to be disposed over a long-term period?

17 We took a 20-year window to examine
18 that, developed surveys that were then distributed
19 to industries or private individuals, as well as
20 those agencies that may have projected dredging
21 needs in the future within that 20-year window.
22 Looking at Long Island Sound as a whole, the
23 existing requirements for dredging within
24 authorized channels, authorized projects for

1 federal use is about 22 million cubic yards over
2 that 20-year period. All the additional projects,
3 which are other agencies that are not navigation
4 related, and private marinas, docks, things of that
5 nature is a little over 9 million cubic yards over
6 that same window.

7 Other projects are proposed to either
8 increase the depth or perhaps add a side channel or
9 a berthing area to existing authorized channels, a
10 total of a little over 1.2 million cubic yards.

11 That data was then organized as a
12 result of the survey response into what we call
13 dredging centers. This is to get a clear idea of
14 where the needs are, where's that dredging been
15 projected, which particular harbors so we can look
16 at it on a regional basis, determine if there is a
17 greater need in the western or central portion of
18 the Sound and how that is distributed.

19 This particular graphic is displayed on
20 a board outside. If you're interested in the
21 specifics, I urge you to first look at that board,
22 and then obviously, the documents are available to
23 look at in more detail. Just so you get a little
24 better idea of what you're looking at, for

1 instance, the largest -- the largest circle up here
2 (indicating) is for the Bridgeport area, harbors,
3 marinas and federal projects there. The blue is
4 actually the federal navigation projected
5 requirements; and the gray is all other projects,
6 which may be private marinas or other agencies'
7 requirements. And you can see Bridgeport is
8 dominated by the need for federal navigation;
9 whereas, harbors down here on Long Island are more
10 dominated by private activities.

11 It's also important to understand what
12 might be the consequences if navigation was not
13 available to both private and federal facilities.

14 As Mark mentioned, navigation-dependent
15 industries comprise at least 50,000 jobs in the
16 region and millions of dollars of impact in terms
17 of the economy. So this is essentially the other
18 part of the balance that needs to be weighed.

19 Let me review then what the initial
20 findings were. Mark has described these, and we'll
21 go over them here, and then we'll move on
22 essentially to the next phase of the study.

23 It's very clear that the dredging of
24 the rivers and harbors along the coast of Long

1 Island Sound is essential to the economic welfare
2 of the region. The numbers bear this out. Pretty
3 extensive surveys were conducted.

4 It's also clear that the capacity of
5 upland, beneficial use and treatment technologies
6 cannot meet the regional dredged materials focal
7 needs. It's important to note, as Mark did, that
8 an individual permit or an individual project must
9 and is required to look carefully at any potential
10 alternative in that region, in that specific
11 location so that there may be smaller projects,
12 there may be specific projects that could take use
13 of -- take advantage of upland, reuse or perhaps
14 beach nourishment, and that would be determined on
15 a project-by-project basis. However, the total
16 projected capacity of upland alternatives and
17 treatment technologies does not meet the projected
18 dredging needs in the region. As a result, it was
19 clear that at least one and perhaps more open water
20 dredged material disposal sites in the Sound would
21 be necessary to meet those long-term regional
22 dredged material disposal needs.

23 I'm going to shift -- turn this back
24 over to Carlton so he can begin to describe what

1 occurred after that decision in 2002.

2 DR. HUNT: Thank you, Drew.

3 As Mr. Cote has pointed out, the agency
4 took a decision in 2002 to, in fact, reduce the
5 Zone of Siting Feasibility. Two essential reasons
6 for that were the need, as was pointed out, to make
7 sure that we had disposal locations available in
8 the Central and Western Long Island Sound. And the
9 other reason was very specifically the geographic
10 nature of the western and central basins of the
11 Sound were sufficiently unique that one could
12 separate those two, the Eastern from the Central
13 and Western Sounds.

14 I hasten to point out that this does
15 not, as we've said before, preclude a consideration
16 of the project's specific basis of those
17 alternatives that could be deployed in any of those
18 three areas.

19 I also point out that the review of the
20 eastern region of Long Island Sound for dredged
21 materials disposal sites was deferred and would be
22 conducted in a supplemental EIS, and it's one that
23 we're considering now.

24 Just to point out on this slide, the

1 original Zone of Siting Feasibility extended
2 essentially from the Block Island, Rhode Island
3 area all the way to the confluence of the east and
4 Harlem Rivers and near Hell's Gate. The
5 modification was to draw a line from Mulberry Point
6 in Guilford, Connecticut to Mattituck Point in
7 New York. So the area that was considered in this
8 particular guyot is the region between this line
9 (indicating) and just to the west of the eastern
10 part of Long Island Sound to the Hell's Gate area.

11 The assessment included an application
12 of geographic information system layers, spacial
13 layers that were developed based on all that
14 literature information, surveys that were
15 conducted, and it was that information was
16 juxtaposed into five general and 11 specific
17 criteria that the Marine Protection, Research and
18 Sanctuaries Act requires to be evaluated when
19 selecting a site for dredged material disposal.

20 The work group and other input also
21 provided factors, which were used or were used to,
22 in fact, address those five general and 11 specific
23 criteria.

24 In order to facilitate the process,

1 that information was organized into two tiers. The
2 first tier ruled out areas that were clearly not
3 acceptable for an open water disposal site. The
4 second tier took the remaining areas and examined
5 it to make decisions regarding further evaluations
6 and location of specific sites for evaluation in
7 the EIS.

8 Tier 1: Evaluation ruled out areas
9 based on the stability and feasibility. The
10 stability of the bottom areas of conflicting use,
11 such as beaches and amenities, conservation areas.
12 Shellfisheries areas were ruled out, areas that
13 would innerfere -- interfere -- excuse me -- with
14 navigation were ruled out; also marine habitats
15 that were considered valuable were ruled out in
16 such areas where one could place a dredged material
17 disposal site. And lastly, areas where there was a
18 high potential for dispersion of material deposited
19 on the sea floor were ruled out.

20 In the second tier, which was used
21 specifically to hone in on locations, the concept
22 there in that tier was to minimize impact to
23 archeological resources, fish habitats, living
24 resources, shellfisheries resources areas and the

1 benthic community that is critical to the
2 ecological function of Long Island Sound.

3 We also evaluated the basic site
4 characteristics from a sediment viewpoint of
5 contaminants and types of sediments there; and
6 lastly, the historic disposal sites that are
7 located within the Sound were looked at.

8 Together, the EPA, the Corps and the
9 cooperating agencies identified four alternative
10 sites that would be carried forward into the EIS
11 for evaluation. Those included the two existing
12 sites in this area, the Western Long Island Sound
13 site, as well as the Central Long Island Sound site
14 and two former dredged material disposal sites
15 located at Bridgeport and Milford.

16 This slide shows the location of those
17 four alternatives: WLIS to the left, CLIS to the
18 east, and Bridgeport and Milford between those two
19 locations.

20 It was found that the data available
21 for the Bridgeport and the Milford site was
22 inadequate to do a full evaluation; and therefore,
23 field efforts were mounted in the summer of 2002 to
24 gather information on sediment chemistry, benthic

1 community structure, sediment toxicity, habitat and
2 sediment characteristics, bottom topography,
3 historic usage, lobster resources. Data collection
4 ended in August of 2002; and at that time, the
5 process of developing the EIS proceeded forward.
6 Those four sites were evaluated along with a No
7 Action Alternative as required by NEPA. In that
8 evaluation, consequences of each alternative were
9 determined.

10 The EIS before you includes several
11 chapters, the first of which is an introduction.
12 It describes the history and the scope of the EIS.

13 Chapter 2 discusses the purpose and
14 need.

15 Chapter 3 explains the alternatives and
16 the process of screening. It also includes a
17 statement of preferred alternatives and the
18 rationale of selecting those.

19 In Chapter 4, the affected environment
20 of the Long Island Sound level, as well as at the
21 specific locations are described. The baseline
22 assessment included physical, biological,
23 ecological, socioeconomic aspects of the open water
24 disposal alternatives being evaluated.

1 In Chapter 5, the consequences are
2 discussed, and the recommendation for preferred
3 alternatives is put forward along with the
4 rationale for that in detail.

5 Chapters 6 through 10 include a number
6 of information pieces compliant with the laws that
7 are required: Public involvement, references, a
8 list of preparers, the list of agencies and
9 organizations that have participated and to whom;
10 and more importantly here, the copies have been
11 sent to for evaluation. In Appendices A through J,
12 and I call out specifically Appendix J, which is
13 site management or includes the two site management
14 and monitoring plans, one for each site.

15 The preferred alternatives put forth in
16 this Draft EIS are WLIS and CLIS. The reasons for
17 recommending these as preferred alternatives
18 follow: Basically these two sites were found to
19 have the least potential for environmental and
20 economic impact when compared to the other three
21 alternatives. Bridgeport and Milford were ruled
22 out because of potential environmental impact,
23 potential economic impacts that might occur at
24 those locations. And then no action was ruled out

1 because of the greater environmental and also the
2 economic impact that taking no action would have on
3 the region.

4 An important aspect was, as the process
5 is coming to where we are today, examination of the
6 specific footprints for those sites identified a
7 couple of issues whereby the sites needed to be
8 reconfigured slightly. That slight reconfiguration
9 does not change the overall conclusions that we've
10 drawn. That reconfiguration are those -- or those
11 configurations are as follows: This is WLIS
12 (indicating). The site boundaries in this slide
13 were moved to the north and west slightly,
14 essentially 1,106 feet to the west and 607 feet to
15 the north to get out of a shoaling area that was
16 located along the southern boundary. It also
17 encompasses historic disposal activities and mounds
18 that were built over time when this site was used.

19 The CLIS site was reconfigured to the
20 east slightly and to the north slightly; and the
21 rationale for that and reasons were that in the
22 original evaluation there were two former disposal
23 sites that were not inside the boundary as
24 configured today, and therefore, it was determined

1 that the boundaries needed to move out to encompass
2 those two locations.

3 Into the future, we're here at this
4 point of reviewing, taking public comments. We
5 would, as you've already heard earlier today,
6 comments will be considered for the final EIS.
7 Responses will be developed. And as the final rule
8 and the final EIS go forward, the 30-day comment
9 period will occur and the publication of the ROD;
10 and lastly, the possible designation would occur.

11 That concludes what we have to present.
12 I thank you for your attention.

13 MODERATOR ROSENBERG: Ladies and
14 gentlemen, it is crucial to this public process
15 that your voice is heard, and we are here to
16 listen, listen to your comments, understand your
17 concerns, and provide you an opportunity to put
18 your thoughts on the record should you care to do
19 so.

20 As a direct result of having these
21 types of open processes, we have been able to
22 overcome many of the difficulties other agencies
23 face when performing activities that directly or
24 indirectly affect the environment and the

1 quality-of-life issues that surround such activity.
2 And once again, we stand before you asking for your
3 expertise and help us seek solutions so together we
4 can identify, evaluate, and build a process that
5 seeks solutions.

6 Although we're here today to continue a
7 very long process for the designation of dredged
8 material disposal sites in the Central and Western
9 regions of Long Island Sound, we do need your
10 participation throughout the entire process. And
11 once again, I thank you for contributing to this
12 extremely worthwhile incentive.

13 The hearing today will be conducted in
14 a manner so that all who have the desire to express
15 their views will be given an opportunity to do so.
16 To preserve the right of all, I ask there be no
17 interruption.

18 Furthermore, in order to make any
19 decisions regarding the designation of dredged
20 material disposal sites in Central and Western Long
21 Island Sound, we, the Environmental Protection
22 Agency and the US Army Corps of Engineers, need to
23 have you involve yourself in this environmental
24 review, not just during this hearing, but

1 throughout the entire process.

2 When you came in, copies of the Federal
3 Register notice and the procedures to be followed
4 at this hearing were available. If you did not
5 receive these, both are available at the
6 registration desk. I will not read either the
7 procedures, or the Federal Register notice, but
8 they will be entered into the record.

9 A transcript of this hearing is being
10 prepared, and the record will remain open, and
11 written comments may be submitted today or by mail
12 until November 17th, 2003. All comments receive
13 equal consideration.

14 Anyone you know that cannot attend or
15 wish to send written comments should forward those
16 comments to Ann Rodney at the Environmental
17 Protection Agency's New England regional office in
18 Boston, Massachusetts.

19 Lastly, I would like to re-emphasize
20 that the government has made no final decisions
21 regarding this project. It is our responsibility
22 to fully evaluate the impacts regarding designating
23 dredged material disposal sites in central and
24 western regions in Long Island Sound prior to the

1 government's decision. And in order to accomplish
2 that, we need your help.

3 Again, we're here to receive your
4 comments, not to enter into any discussions of
5 those comments or to reach any conclusions. Any
6 questions you have should be directed to the record
7 and not to the individuals on the panel.

8 If there is no objection from the
9 Hearing Officer, I will now dispense with the
10 reading of the Federal Register notice of this
11 hearing and have it entered into the record.

12 HEARING OFFICER COTE: No objection.

13

14 * * * * *

15

16 Federal Register Proposed Rules

17 Vol. 68, No. 177

18 Friday, September 12, 2003

19 ENVIRONMENTAL PROTECTION AGENCY

20 40 CFR Part 228

21 [FRL-7553-9]

22 Ocean Disposal; Proposed Designation of Dredged
23 Material Disposal Sites in the Central and Western
24 Portions of Long Island Sound, CT

1

2 Agency: Environmental Protection Agency (EPA).

3 Action: Proposed rule.

4

5 SUMMARY: EPA today proposes to designate two
6 dredged material disposal sites; Central Long
7 Island Sound (CLIS) and Western Long Island Sound
8 (WLIS) located offshore from New Haven and
9 Stamford, Connecticut, respectively, for the
10 disposal of suitable dredged material removed from
11 the central and western portions of the Long Island
12 Sound region of Connecticut, New York and other
13 nearby harbors or dredging sites. This action is
14 necessary to provide long-term dredged material
15 disposal sites for the current and future disposal
16 of this material. The proposed site designations
17 are for an indefinite period of time. The sites
18 are subject to continuing monitoring to ensure that
19 unacceptable, adverse environmental impacts do not
20 occur. The proposed action is described in the
21 Draft Environmental Impact Statement (DEIS), and
22 the monitoring plans are described in the CLIS and
23 WLIS Site Management and Monitoring Plans (SMMPs).
24 The SMMPs are provided as appendix J of the DEIS.

1 Site designation does not itself actually authorize
2 the disposal of any particular dredged material at
3 a site. Proposals to dispose of dredged material
4 at a designated site is subject to project-specific
5 reviews and authorization and still must satisfy
6 the criteria for ocean dumping.

7

8 DATES: Comments must be received by 5 p.m. on
9 October 27, 2003. Public hearings dates:

10 1. September 30, 2003 in NY from 1
11 p.m. - 5 p.m. and 6 p.m. - 10 p.m.

12 1. October 1, 2003 in CT from 1
13 p.m. - 5 p.m. and 6 p.m. - 10 p.m.

14

15 ADDRESSES: Written comments should be sent to: Ms.
16 Ann Rodney, U.S. Environmental Protection Agency
17 New England Region, One Congress Street, Suite 1100
18 (CWQ), Boston, MA 02114-2023 or electronically to
19 Rodney.Ann@epa.gov.

20 The public hearing locations are:

21 1. September 30, 2003 - New York SUNY
22 at Stony Brook, Stony Brook, NY 11794-1603. The
23 meeting will be held inside the "Charles B. Wang
24 Asian-American center".

1 2. October 1, 2003 - Westin Stamford,
2 One First Stamford Place, Stamford, CT 06902.

3
4 FOR FURTHER INFORMATION CONTACT: Ms. Ann Rodney,
5 U.S. Environmental Protection Agency New England
6 Region, One Congress Street, Suite 1100 (CWQ),
7 Boston, MA 02114-2023, telephone (617) 918-1538,
8 electronic mail: RodneyAnn@epa.gov.

9
10 SUPPLEMENTARY INFORMATION:

11 Public Review of Documents: The file
12 supporting this proposed designation is available
13 for inspection at the following locations:

14 1. In person. The Proposed Rule and
15 the Draft Environmental Impact Statement (DEIS)
16 which includes the SMMPS (Appendix J), are
17 available for inspection at the following
18 locations: A. EPA New England Library, 11th Floor,
19 One Congress Street, Suite 1100 (CWQ), Boston, MA
20 02114-2023. For access to the documents, call Peg
21 Nelson at (617) 918-1991 between 10 a.m. and 3 p.m.
22 Monday through Thursday, excluding legal holidays,
23 for an appointment. B. Mamaroneck Public Library
24 Inc., 136 Prospect Ave., Mamaroneck, NY. C. Port

1 Jefferson Free Library, 100 Thompson Street, Port
2 Jefferson NY. D. Bridgeport Public Library, 925
3 Broad Street, Bridgeport, CT. E. Milford City
4 Library, 57 New Haven Ave., Milford, CT. F.
5 New Haven Free Public Library, 133 Elm Street,
6 New Haven, CT. G. New London Public Library, 63
7 Huntington Street, New London, CT. H. Norwalk
8 Public Library, 1 Belden Ave., Norwalk, CT. I.
9 Acton Public Library, 60 Old Boston Post Road, Old
10 Saybrook, CT. J. Ferguson Library, 752 High Ridge
11 Road, Stamford, CT.

12 2. Electronically. You also may review
13 and/or obtain electronic copies of these documents
14 and various support documents from the EPA home
15 page at the Federal Register
16 <http://www.epa.gov/fedrgstr/>, or on the EPA New
17 England Region's homepage at
18 <http://www.epa.gov/region1/eco/lisdreg/>.

19

20 A. Background

21 Section 102(c) of the Marine
22 Protection, Research, and Sanctuaries Act (MPRSA)
23 of 1972, as amended, 33 U.S.C. 1401 et seq., gives
24 the Administrator of EPA authority to designate

1 sites where ocean disposal, also referred to
2 interchangeably as ocean dumping, may be permitted.
3 On October 1, 1986, the Administrator delegated
4 authority to designate ocean dredged material
5 disposal sites (ODMDS) to the Regional
6 Administrator of the EPA Region in which the sites
7 are located. The CLIS and WLIS sites are located
8 within New England (EPA New England); therefore,
9 this action is being taken pursuant to the Regional
10 Administrator's delegated authority. EPA
11 regulations (40 CFR 228.4(e)(1)) promulgated under
12 the MPRSA require, among other things, that EPA
13 designate ocean dumping sites (ODMDS) by
14 promulgation in 40 CFR part 228. Designated ocean
15 dumping sites are codified at 40 CFR 228.15. This
16 rule proposes to designate two sites for open water
17 disposal of dredged materials. These sites are
18 currently being used under the authority of MPRSA
19 Section 103 and are located in the western and
20 central regions of Long Island Sound.

21 The primary authorities that govern the
22 aquatic disposal of dredged material in the United
23 States are the CWA and the MPRSA. All dredged
24 material disposal activities in Long Island Sound,

1 whether from Federal or non-Federal projects of any
2 size, are subject to the requirements of
3 Section 404 of the CWA, 33 U.S.C. 1344. In 1980,
4 the MPRSA was amended to add Section 106(f) to the
5 statute. 33 U.S.C. 1416(f). This provision is
6 commonly referred to as the "Ambro Amendment,"
7 named after Congressman Jerome Ambro. MPRSA
8 section 106(f), 33 U.S.C. 1416(f) was itself
9 amended in 1990. As a result of this provision,
10 the disposal of dredged material in Long Island
11 Sound from both Federal projects (projects carried
12 out under the Corps civil works program or the
13 actions of other Federal agencies or from
14 non-Federal projects involving more than 25,000
15 cubic yards (19,114 cubic meters) of material must
16 satisfy the requirements of both CWA section 404
17 and the MPRSA. Disposal from non-Federal projects
18 involving less than 25,000 cubic yards (19,114
19 cubic meters) of material, however, are subject to
20 CWA section 404 only.

21 The two dredged material disposal sites
22 in Long Island Sound being proposed in this action
23 are necessary to provide long-term disposal options
24 for the Corps to maintain deep-draft, international

1 commerce and navigation through authorized federal
2 navigation projects and to ensure safe navigation
3 for public and private entities. One of the
4 proposed sites is in the central portion of the
5 sound, while the other is in the western portion of
6 the sound.

7 The sites will be subject to continuing
8 site management and monitoring to ensure that
9 unacceptable, adverse environmental impacts do not
10 occur. The management of the sites is further
11 described in the draft Site Monitoring and
12 Management Plans (SMMPs) for CLIS and WLIS
13 (appendix J of the DEIS). Documents being made
14 available for public comment by EPA at this time
15 include this proposed rule, DEIS, and Draft SMMPs
16 (appendix J of DEIS).

17 The designations are being proposed in
18 accordance with 40 CFR 228.4(e) of the Ocean
19 Dumping Regulations, which allow EPA to designate
20 ocean sites for disposal of dredged materials.

21

22 B. Regulated Entities

23 Entities potentially regulated by the
24 proposed rule are persons, organizations, or

1 government bodies seeking to dispose of dredged
2 material in waters of Long Island Sound, under the
3 MPRSA and its implementing regulations. The
4 proposed rule is expected to be primarily of
5 relevance to (a) parties seeking permits from the
6 Corps to transport dredged material for the purpose
7 of disposal into the waters of the central and
8 western regions of Long Island Sound, and (b) to
9 the Corps itself for its own dredged material
10 disposal projects. Potentially regulated
11 categories and entities that may seek to use the
12 proposed dredged material disposal sites and would
13 be subject to this Rule may include:

14

15 Category/Examples of potentially regulated entities
16 Federal Government...U.S. Army Corps of Engineers
17 Civil Works Projects, and Other Federal Agencies.

18

19 Industry and General Public...Port Authorities,
20 Marinas and Harbors, Shipyards, and Marine Repair
21 Facilities, Berth Owners.

22

23 State, local and tribal governments...Governments
24 owning and/or responsible for ports, harbors,

1 and/or berths, Government agencies requiring
2 disposal of dredged material associated with public
3 works projects.

4
5 This table lists the types of entities
6 that could potentially be regulated should the
7 proposed rule become a final rule. EPA notes that
8 nothing in this proposed rule alters the
9 jurisdiction or authority of EPA or the types of
10 entities regulated under the MPRSA. Questions
11 regarding the applicability of this proposed rule
12 to a particular entity should be directed to the
13 contact person listed in the preceding FOR FURTHER
14 INFORMATION CONTACT section.

15
16 C. EIS Development

17 Section 102(c) of the National
18 Environmental Policy Act (NEPA) of 1969, 42 U.S.C.
19 4321 et seq., requires that Federal agencies
20 prepare an environmental impact statement (EIS) on
21 proposals for major Federal actions significantly
22 affecting environmental quality. The objective of
23 NEPA is to build into agency decision-making
24 process careful consideration of all environmental

1 aspects of proposed actions, including evaluation
2 of reasonable alternatives to the proposed action.
3 While NEPA does not apply to EPA activities in
4 designating ocean disposal sites under the MPRSA,
5 EPA has voluntarily agreed as a matter of policy to
6 conduct a NEPA environmental review in connection
7 with ocean dumping site designations (See 63 FR
8 58045 (October 29, 1998), "Notice of Policy and
9 Procedures For Voluntary Preparation of National
10 Environmental Policy Act (NEPA) Documents."
11 Consistent with this policy, EPA, in cooperation
12 with the U.S. Army Corps of Engineers, has prepared
13 a DEIS entitled, "Draft Environmental Impact
14 Statement for the Designation of Dredged Material
15 Disposal Sites in Central and Western Long Island
16 Sound, Connecticut and New York, dated August 2003"
17 which considers the environmental aspects of site
18 designation in central and western LIS. A Notice
19 of Availability of the DEIS for public review and
20 comment is being published concurrently with this
21 Proposed Rule in today's Federal Register. Anyone
22 wishing to review a copy of the DEIS may do so in
23 one of the ways described above (see ADDRESSES).
24 The public comment period for this DEIS will close

1 on October 27, 2003. The public comment period on
2 the Proposed Rule Publication will also close on
3 October 27, 2003. Comments may be submitted by one
4 or more of the methods described above.

5 The purpose of the proposed action is
6 to designate open water disposal sites that will
7 meet long-term dredged material disposal needs in
8 LIS. The appropriateness of open water disposal
9 for any specific, individual dredging project is
10 determined on a case-by-case basis under the
11 permit/authorization process governing the open
12 water disposal of dredged material.

13 Designation of an open water disposal
14 site under 40 CFR part 228 is essentially a
15 preliminary, planning measure. The practical
16 effect of such a designation is only to require
17 that if future ocean open water disposal activity
18 is permitted under 40 CFR part 227, then such
19 disposal should be normally be consolidated at the
20 designated sites (see 33 U.S.C. 1413(b)).
21 Designation of open water disposal sites does not
22 authorize any actual disposal and does not preclude
23 EPA or the Corps from finding available and
24 environmentally preferable alternative means of

1 managing dredged materials, or from finding that
2 certain dredged material is not suitable for open
3 water disposal under the applicable regulatory
4 criteria. Nevertheless, EPA has determined that it
5 is appropriate to designate open water disposal
6 sites for dredged materials in the central and
7 western Long Island Sound now, because it appears
8 unlikely that feasible alternative means of
9 managing dredged material will be available to
10 accommodate the projected dredged material of this
11 region in the future.

12 Proposals for the open water disposal
13 of dredged materials from individual projects are
14 evaluated by EPA New England and the Corps' New
15 England District on a case-by-case basis, taking
16 into account all the alternatives available at the
17 time of permitting. Beneficial reuse alternatives
18 will be preferred over open water disposal whenever
19 they are practicable.

20 The DEIS describes the purpose and need
21 for the proposed action and evaluates a number of
22 alternatives to this action. EPA's analysis of
23 alternatives considered several different potential
24 open water disposal sites for dredged material from

1 Connecticut and surrounding harbors, as well as
2 potential alternative means of managing these
3 dredged materials other than open water disposal.
4 As described in the DEIS, the initial screening
5 evident was established to consider the most
6 environmentally sound, economically and
7 operationally feasible area site designation.
8 Alternatives evaluated included various marine
9 sites, upland disposal, beneficial uses, and the no
10 action alternative.

11 In addition to considering reasonable
12 distances to transport dredged material, the open
13 water disposal analysis considered areas of
14 critical resources as well as areas of
15 incompatibility for use as a disposal site. This
16 included but was not limited to such factors as the
17 sensitivity and value of natural resources,
18 geographically limited habitats, fisheries, and
19 shellfisheries, natural resources, shipping and
20 navigation lanes, physical and environmental
21 parameters, and economic and operational
22 feasibility. The analysis was carried out in a
23 tiered process. The final tier involved further
24 analysis of the no action alternative and the

1 following four open water alternative sites:
2 Central LIS (CLIS), Milford, Bridgeport and Western
3 LIS (WLIS). These sites were evaluated and two
4 sites were selected as preferred alternatives for
5 potential site designation. Management strategies
6 were developed for the preferred alternatives and
7 are described in the SMMPs.

8 To obtain public input during the
9 process, EPA and the Corps held public workshops
10 and scoping meetings, as well as convened an EIS
11 working group. The purpose of the working group
12 was to assist in identifying and evaluating the
13 best long-term dredged material disposal options
14 for Long Island Sound. Representatives from state,
15 local, tribal and federal agencies were invited to
16 participate in the working group as well as
17 individuals representing other interests. The
18 working group assembled for a series of five
19 meetings between July 2000 and November 2002.
20 Comments received were factored into the
21 development of the DEIS. The NEPA process led to
22 the current proposal that CLIS and WLIS be
23 designated as open water dredged material disposal
24 sites.

1

2 D. Proposed Sites Descriptions

3

4 The two sites, CLIS and WLIS, are
5 proposed for designation. Draft SMMPS have been
6 prepared for the two proposed open water disposal
7 sites and are available for review and comment by
8 the public. (Copies may be obtained by request
9 from the FURTHER INFORMATION CONTACT listed in the
10 introductory section to this proposed rule.) Use
11 of newly-designated open water disposal sites would
12 be subject to any restrictions included in the site
13 designation and the approved SMMPS. These
14 restrictions will be based on a thorough evaluation
15 of the proposed sites pursuant to the Ocean Dumping
16 Regulations and potential disposal activity as well
17 as consideration of public review and comment.

18 Central Long Island Sound (CLIS). The
19 CLIS site proposed for long-term designation by EPA
20 is currently in operation under the Corps'
21 short-term site selection authority. It has been
22 one of the most active dredged material disposal
23 sites in New England. Overall, CLIS has received
24 close to 14 million cubic yards (11 million cubic
meters) since 1941. The site was used prior to

1 enactment of MPRSA in 1972 and continued to be used
2 thereafter. Between 1982 and 2001 CLIS received
3 approximately 7 million cubic yards (5.4 million
4 cubic meters), with an average annual volume of
5 350,000 cubic yards (268,000 cubic meters). The
6 site is a rectangular area, approximately 2
7 nautical miles by 1 nautical mile, located 5.6
8 nautical miles south of South End Point near East
9 Haven, Connecticut, in water depths from 59 to 74
10 feet (18 to 22.5 meters). The sediments at the
11 site are predominantly uniform clayey silt with an
12 area of mixed sand, clay and silt. These sediments
13 are typical of those found in fine-grained
14 depositional environments of the central basin of
15 Long Island Sound. This proposed rule would
16 designate the CLIS site with boundaries slightly
17 changed from the current site. The CLIS boundary
18 was reconfigured so that the northern boundary was
19 moved by 700 feet (215 meters) and the eastern
20 boundary was moved by 1,230 feet (375 meters) in
21 order to include two previously used disposal
22 mounds (FVP, CS2) which are currently outside of
23 the existing site boundaries. This reconfiguration
24 will allow for management and monitoring of the FVP

1 and CS2 mounds. The coordinates (North American
2 Datum 1983: NAD 83) for the proposed CLIS site, are
3 as follows:

4

5 CLIS

6 41| 09'5"N, 72| 54'4" W.

7 41| 09'5"N, 72| 51'4" W.

8 41| 08'4"N, 72| 54'4" W.

9 41| 08'4"N, 72| 51'5" W.

10 Western Long Island Sound (WLIS). The
11 WLIS site proposed for long-term designation by EPA
12 is currently in operation under the Corps'
13 short-term site selection authority.

14 The site is a rectangular area, 1.2 by
15 1.3 square nautical miles (2.2 by 2.4 kilometers)
16 that has been use for dredged material disposal
17 since 1982. After completion of an EIS, the site
18 was established in 1982 as a regional dredged
19 material disposal site to serve the needs of the
20 western area of Long Island Sound. Between 1982
21 and 2001, WLIS received 1.7 million cubic yards
22 (1.3 million cubic meters), with an average annual
23 volume of 85,000 cubic yards (65,000 cubic meters).
24 The site is located 2.7 nautical miles north of

1 Lloyd Point, New York and 2.5 nautical miles
2 (4.6 kilometers) south of Long Neck Point near
3 Noroton, Connecticut, in water depths of 79 to 118
4 feet (24 to 30 meters). The sediments at the site
5 are heterogeneous, with clay silt in the northeast
6 corner and a mixture of sand-silt-clay in the
7 center and southeast corner. These sediments are
8 typical of those found in fine-grained depositional
9 environments of the western basin of Long Island
10 Sound. In addition to the ambient silts from this
11 region, there are deposits of material of mixed
12 grain sizes dredged from harbors and navigation
13 channels throughout the western basin. This
14 proposed rule would designate the WLIS site with
15 boundaries which have been slightly reconfigured.
16 The WLIS boundaries have been shifted to the west
17 by approximately 1,106 feet (337 meters) and to the
18 north by 607 feet (185 meters). This shift move
19 will relocate the WLIS site out of a rapidly
20 shoaling area. The coordinates (North American
21 Datum 1983: NAD 83) for the proposed WLIS site, are
22 as follows:
23 WLIS
24 41° 00'1"N., 73° 29'8"W.

1 41| 00'1"N., 73| 28'0"W.

2 41| 58'9"N., 73| 29'8"W.

3 41| 58'9"N., 73| 28'1"W.

4

5 E. Analysis of Criteria Pursuant to the Ocean
6 Dumping Act Regulatory Requirements

7 Five general criteria are used in
8 evaluating possible dredged material disposal sites
9 for long-term use under the MPRSA (see 40 CFR
10 228.5).

11 General Criteria (40 CFR 228.5)

12 1. Minimize interference with other
13 activities, particularly avoiding fishery areas or
14 major navigation areas. The first of the five
15 general criteria requires that a determination be
16 made as to whether the site or its use will
17 minimize interference with other uses of the marine
18 environment. For this proposed rule, a
19 determination was made to overlay individual uses
20 and resources over GIS bathymetry and disposal site
21 locations. This process was used to visually
22 determine the maximum and minimum interferences
23 with other uses of the marine environment that
24 could be expected to occur. Both the CLIS and WLIS

1 disposal sites showed minimum interference with
2 other activities. The proposed sites do not
3 interfere with lobster or fishing activities,
4 although the areas surrounding the disposal sites
5 provide good lobster habitat. The two proposed
6 sites are also not located in shipping lanes or
7 major navigation areas and otherwise have been
8 selected to minimize interference with fisheries,
9 shellfisheries and regions of commercial or
10 recreational navigation.

11 2. Minimize Changes in Water Quality.
12 Temporary water quality perturbations (during
13 initial mixing) caused by disposal operations would
14 be reduced to normal ambient levels before reaching
15 areas outside of the disposal site. The second of
16 the five general criteria requires that locations
17 and boundaries of disposal sites be selected so
18 that temporary changes in water quality or other
19 environmental conditions during initial mixing
20 caused by disposal operations anywhere within a
21 site can be expected to be reduced to normal
22 ambient seawater levels or to undetectable
23 contaminant concentrations or effects before
24 reaching beaches, shorelines, sanctuaries, or

1 geographically limited fisheries or shellfisheries.
2 The proposed sites will be used only for dredged
3 material disposal of suitable sediments as
4 determined by application of MPRSA sediment quality
5 criteria. No significant contaminant or suspended
6 solids released are expected. Based on data
7 evaluated as part of the DEIS, disposal of either
8 sandy or fine-grained material would have no
9 long-term impact on water quality at the proposed
10 sites. In addition, dredged material deposited at
11 the sites and water quality perturbations are not
12 expected to reach any marine sanctuary, beach or
13 other important natural resource area.

14 3. Interim Sites Which Do Not Meet
15 Criteria. There are no interim sites to be
16 considered under this criterion. The CLIS and WLIS
17 proposed sites are not interim sites as defined
18 under the Ocean Dumping regulations.

19 4. Size of sites. The fourth general
20 criterion requires that the size of open water
21 disposal sites be limited to localize for
22 identification and control any immediate adverse
23 impacts and to permit the implementation of
24 effective monitoring and surveillance programs to

1 prevent adverse long-range impacts. Size,
2 configuration and location is to be determined as
3 part of the disposal site evaluation. For this
4 proposed rule, EPA has determined, based on the
5 information presented in the DEIS, that the sites
6 have been sized to provide sufficient capacity to
7 accommodate material dredged from the harbors and
8 channels of Long Island Sound. The existing site
9 boundaries of the CLIS site have been reconfigured
10 to include two previously used disposal (FVP and
11 CS2) mounds that were outside of the existing
12 boundary. Inclusion of these mounds within the
13 CLIS disposal site boundary will allow for
14 management and monitoring of the mounds. The WLIS
15 site has also been reconfigured. The WLIS
16 boundaries were moved to the north west to avoid a
17 rapidly shoaling area. The management and
18 monitoring plans are described in the CLIS and WLIS
19 SMMPs (Appendix J of the DEIS).

20 5. EPA must, wherever feasible,
21 designates dumping sites beyond the edge of the
22 continental shelf and where historical disposal has
23 occurred. The fifth criterion requires EPA,
24 wherever feasible, to designate ocean dumping sites

1 beyond the edge of the continental shelf and at
2 other sites that have historically been used.
3 Sites beyond the edge of the continental shelf are
4 not economically feasible due to the extended
5 travel time and associated expense. In addition,
6 the proposed sites, if designated, encompass the
7 footprint of historically used sites. Thus, the
8 proposed disposal sites are consistent with this
9 criterion.

10 As discussed briefly above, EPA has
11 found that the CLIS and WLIS disposal sites satisfy
12 the five general criteria described in 40 CFR 228.5
13 of the EPA Ocean Dumping Regulations. More
14 detailed information relevant to these criteria can
15 be found in the DEIS and SMMPs.

16 In addition to the general criteria
17 discussed above, 40 CFR 228.6(a) lists eleven
18 specific factors to be used in evaluating a
19 proposed disposal site under the MPRSA to assure
20 that the five general criteria are met. The CLIS
21 and WLIS sites, as discussed below, are also
22 acceptable under each of the 11 specific criteria.
23 The evaluation of the preferred disposal sites
24 relevant to the 5 general and 11 specific criteria

1 is discussed in substantially more detail in the
2 DEIS.
3 Specific Criteria (40 CFR 228.6).

4 1. Geographical Position, Depth of
5 Water, Bottom Topography and Distance From Coast
6 (40 CFR 228.6(a)(1)). The proposed CLIS site is a
7 rectangular area approximately 2 nautical miles by
8 1 nautical mile, located 5.6 nautical miles south
9 of South End Point near East Haven, Connecticut, in
10 water depths from 59 to 74 feet (18 to 22.5
11 meters). The sediments at the site are
12 predominantly uniform clayey silt with an area of
13 mixed sand, clay and silt. The seafloor at CLIS
14 slopes from northwest to southeast. The proposed
15 WLIS site is a rectangular area, of approximately 1
16 square nautical mile. The site is located 2.7
17 nautical miles north of Lloyd Point, New York and
18 2.5 nautical miles (4.6 kilometers) south of Long
19 Neck Point near Noroton, Connecticut, in water
20 depths of 79 to 118 feet (24 to 30 meters). The
21 sediments at the site are heterogeneous, with clay
22 silt in the northeast corner and a mixture of
23 sand-silt-clay in the center and southeast corner.
24 These sediments are typical of those found in

1 fine-grained depositional environments of the
2 western basin of Long Island Sound. The seafloor
3 at WLIS is a gentle downward sloping plane from
4 north to south and is bisected by an axial
5 depression that runs from east to west, dipping to
6 118 feet (36 meters) in one quarter of the site in
7 the southern half. EPA anticipates that disposal
8 of dredged material placed at either of these sites
9 would adhere to mound configuration. Each site
10 will be managed based on its unique environmental
11 conditions.

12 2. Location in Relation to Breeding,
13 Spawning, Nursery, Feeding, or Passage Areas of
14 Living Resources in Adult Or Juvenile Phases (40
15 CFR 228.6(a)(2)). The Corps and EPA has initiated
16 ESA and EFH consultation with publication of the
17 DEIS in coordination with the National Marine
18 Fisheries Service (NMFS), U.S. Fish and Wildlife
19 Service (USFWS). Through coordination with the New
20 York Department of Environmental Conservation, the
21 Connecticut Department of Environmental Protection,
22 NMFS and USFWS, data has been obtained on current
23 threatened or endangered species in Long Island
24 Sound. The many organisms at the proposed sites

1 include zooplankton (copepods, tintinnids) and
2 phytoplankton. These organisms display a range of
3 abundance by season. The populations at or near
4 the proposed sites are not unique to the sites and
5 are present over most of the sound. It is expected
6 that although small, short-term entrainment losses
7 may occur immediately following disposal, no long
8 term, adverse impacts to organisms in the water
9 column will occur.

10 The benthic community at these sites is
11 comprised primarily of Annelida, Mollusca, and
12 Crustacea. Abundance was greater at the WLIS site.
13 It is expected that short-term reduction in
14 abundance and diversity at the sites may occur
15 immediately following disposal, but long term,
16 adverse impacts to benthic organisms are not
17 expected to occur.

18 The sites are located off shore in a
19 semi-enclosed estuary that is occupied by more than
20 83 fish species. Species richness did not vary
21 change significantly among sites. Some fish
22 species found to dominate the areas include winter
23 flounder, windowpane flounder and scup. The
24 American lobster is a primary shellfish resource in

1 the sound. At the CLIS site, longfin squid were
2 also abundant. It is expected that impacts to
3 finfish resources will consist of short-term, local
4 disruptions and the potential loss of some
5 individual fish of certain nonmigratory species.
6 Most of the finfish species are migratory. It is
7 expected that impacts to lobster will be short-term
8 and associated with disposal, burial and loss of
9 habitat or food.

10 The coast supports a large number of
11 resident and migratory marine and coastal birds.
12 Dozens of marine and coastal birds migrate through
13 Long Island Sound annually. In addition, LIS
14 provides limited habitat for most marine mammals
15 and reptiles. The species that are frequent or
16 occasional visitors to the sound are harbor
17 porpoises, long-finned pilot whales, seals and sea
18 turtles (Kemp's ridley, loggerhead, leatherback and
19 hawksbill).

20 The federally listed threatened and
21 endangered species or species of "special concern"
22 which may occur within the area of the proposed
23 sites include: Humpback, fin, and right whales;
24 loggerhead, green, Kemp's ridley, and hawksbill sea

1 turtles; Atlantic and Shortnose sturgeons. No
2 endangered birds are expected to occur in the area
3 of the proposed sites. Occurrence of these species
4 varies by season. Use of the sites by whales and
5 endangered birds would be incidental. The presence
6 of sea turtles may occur in this area of the
7 proposed sites during the summer and fall. It is
8 not expected that dredging activities would have
9 any significant adverse effect on these species or
10 their critical habitat. Disposal at both of the
11 proposed sites is expected to result in the
12 mortality of benthic organisms as an immediate
13 result of material burying organisms on the
14 seafloor. However, recolonization at the disposal
15 sites is expected to occur within a year or more
16 after a disposal event. With respect to the other
17 living resources that use the proposed CLIS and
18 WLIS sites, the sites are not being located in
19 areas that provide limited or unique breeding,
20 spawning, nursery, feeding, or passage areas.

21 3. Location in Relation to Beaches and
22 Other Amenity Areas (40 CFR 228.6(a)(3)). The CLIS
23 and WLIS disposal sites are within the semienclosed
24 Long Island Sound estuary. The closest beaches,

1 refuges sanctuaries or areas of special concern are
2 at least two nautical miles from either disposal
3 site. The CLIS and WLIS disposal sites are
4 approximately 6 nautical miles (11 kilometers) from
5 the closest beaches (Short Beach and Calf Pasture
6 Beach, respectively). For the CLIS disposal site,
7 the closest refuge or sanctuary (approximately
8 seven nautical miles) is the Outer Island Unit of
9 the Stewart B. McKinney National Wildlife Refuge.
10 Areas of special concern at the CLIS site include
11 Quinnipiac River Marsh Wildlife Management Area,
12 Great Harbor, Wildlife Management Area and Wildwood
13 State Park. For the WLIS disposal site, the
14 closest refuge or sanctuary is the Stewart B.
15 McKinney National Wildlife Refuge, Caumsett State
16 Park and Target Rock National Wildlife Refuge. It
17 is expected that impacts would not occur to
18 beaches, areas of special concern, parks, natural
19 resources, sanctuaries or refuges since they are
20 either land-based or further than two nautical
21 miles from either proposed disposal site.
22 Therefor, EPA has determined that dredged material
23 disposal at the preferred disposal site locations
24 should not have any adverse effect on beaches or

1 other amenity areas, including wildlife refuges or
2 other areas of biological or recreational
3 significance.

4 4. Types and Quantities of Wastes

5 Proposed to be Disposed of, and Proposed Methods of
6 Release, Including Methods of Packing the Waste, if
7 any (40 CFR 228.6(a)(4)). The typical composition
8 of dredged material to be disposed at the sites is
9 expected to range from predominantly "clay-silt" to
10 "mostly sand." This expectation is based on data
11 from historical projects from the Central and
12 Western Regions of Long Island Sound. The disposal
13 of this material shall occur at designated buoys
14 and would be expected to be placed so as to
15 concentrate material from each disposal. This
16 placement is expected to help minimize bottom
17 impacts to benthic organisms. Suitability
18 determinations will be made before authorization
19 for disposal under MPRSA section 103 and CWA
20 section 404 will be issued. The sites that are
21 proposed to be designated will receive dredged
22 materials determined to be suitable for ocean
23 disposal that are transported by either government
24 or private contractor hopper dredges or ocean-going

1 bottom-dump barges towed by tugboat. Both types of
2 equipment release the material at or very near the
3 surface.

4 Furthermore, it should be emphasized
5 that these disposal sites are being promised for
6 designation only to receive dredged material;
7 disposal of other types of material at these sites
8 will not be allowed. It should also be noted that
9 the disposal of certain other types of material is
10 expressly prohibited by the MPRSA and EPA
11 regulations (e.g., industrial waste, sewage sludge,
12 chemical warfare agents). See, e.g., 33 U.S.C.
13 1414b; 40 CFR 227.5(b). For these reasons, no
14 significant adverse impacts are expected to be
15 associated with the types and quantities of dredged
16 material that may be disposed of at the sites.

17 5. Feasibility of Surveillance and
18 Monitoring (40 CFR 228.6(a)(5)). Monitoring and
19 surveillance are expected to be feasible at both
20 proposed sites. Both sites are readily accessible
21 for bathymetric surveys and have undergone
22 monitoring, including sidescan sonar. If field
23 monitoring of the disposal activities is required
24 because of a future concern for habitat changes or

1 limited resources, a management decision will be
2 made by EPA New England and the Corps' New England
3 District who share the responsibilities of managing
4 and monitoring the disposal sites. Once the
5 proposed sites are designated, monitoring shall be
6 completed in accordance with the then-current
7 SMMPs. It is expected that revisions to the SMMPs
8 may be made periodically; revisions will be
9 circulated for review, coordinated with the
10 affected states and become final when approved by
11 EPA New England Region in conjunction with the
12 Corps' New England District. See 33 U.S.C.
13 1413(c)(3).

14 6. Dispersal, Horizontal Transport and
15 Vertical Mixing Characteristics of the Area,
16 Including Prevailing Current Direction and
17 Velocity, if any (40 CFR 228.6(a)(6)). The
18 interactions of bathymetry, wind-generated waves
19 and river and ocean currents are complex. Tidal
20 currents are the dominant source of water movement
21 in LIS. Tidal currents generally run east-west
22 parallel to the axis of the Sound and are
23 substantially stronger in the eastern portion of
24 the sound. At the CLIS site, average peak ebb and

1 peak flood currents run 20 to 30 centimeters/second
2 (depth averaged), with the spring tides 20 to 40
3 percent stronger. The dominant flow direction is
4 east-west. Also observed is a net
5 west-southwestward flow of approximately 2.5
6 centimeters/second. The wind fetch at both sites
7 is limited by the semienclosed nature of the LIS
8 and wave height was recorded in the spring of 2001
9 at 5 feet. However, wave heights can be developed
10 at the site by winds from storms. A northeast
11 storm with a return period of 2 years will generate
12 waves of 8 feet. Storms with a return period of 10
13 years will generate waves of 10 feet. At the WLIS
14 site, average peak ebb and peak flood currents run
15 20 to 30 centimeters/second (depth-averaged), with
16 the spring tides 20 to 30 percent stronger. Based
17 on studies conducted historically, flows directed
18 to the west-southwest run from 30 to 45
19 centimeters/second 5 percent of the time. The wind
20 fetch is limited at this site, however wave height
21 was recorded in the spring of 2001 at 6.5 feet. A
22 northeast storm with a return period of 2 years
23 will generate waves of 9 feet. Storms with a
24 return period of 10 years will generate waves of 11

1 feet.

2 It is expected that peak wave induced
3 bottom orbital velocities are not sufficient to
4 cause significant erosion of dredged material at
5 either of the proposed sites. For these reasons,
6 EPA has determined that the dispersal, transport
7 and mixing characteristics, and current velocities
8 and directions at the CLIS and WLIS sites are
9 appropriate for designation as a dredged material
10 disposal sites.

11 7. Existence and Effects of Current and
12 Previous Discharges and Dumping in the Area
13 (including Cumulative Effects) (40 CFR
14 228.6(a)(7)). The CLIS and WLIS disposal sites are
15 currently being used for disposal activity pursuant
16 to the Corps' short-term site selection authority
17 under section 103(b) of the MPRSA. 33 U.S.C.
18 1413(b). These sites have also been used
19 historically under prior legal regimes. These past
20 disposal operations at these sites have been
21 managed and material disposal has been monitored.
22 Past use of these sites generally makes them
23 preferable to more pristine sites that have either
24 not been used or have been used in the more distant

1 past. See 40 CFR 228.5(e). Beyond this, however,
2 EPA's evaluation of data and modeling results
3 indicates that these past disposal operations have
4 not resulted in unacceptable or unreasonable
5 environmental degradation, and that there should be
6 no significant adverse cumulative environmental
7 effects from continuing to use these sites on a
8 long-term basis.

9 8. Interference With Shipping, Fishing,
10 Recreation, Mineral Extraction, desalination, Fish
11 and Shellfish Culture, Areas of Special Scientific
12 Importance and Other Legitimate Uses of the Ocean
13 (40 CFR 228.6(a)(8)). In evaluating whether
14 disposal activity at the sites could interfere with
15 shipping, fishing, recreation, mineral extraction,
16 desalination, areas of scientific importance and
17 other legitimate uses of the ocean, EPA considered
18 both the direct effects from depositing dredged
19 material on the ocean bottom at the proposed sites
20 and the indirect effects associated with increased
21 vessel traffic that will result from transportation
22 of dredged material to the disposal sites.
23 Commercial fishing activities occur throughout LIS.
24 Commercial fish trawling occurs in the vicinity of

1 the CLIS proposed site and is the only area within
2 the western and central Sound that fishermen can
3 trawl successfully due to the abundance of lobster
4 pots in other areas of the Sound. Commercial
5 fishing is not affected at the WLIS site since it
6 is not currently used due to harvesting
7 restrictions. While lobstering occurs at both
8 proposed sites, WLIS is a more active lobstering
9 site than CLIS. Recreational fishing most
10 frequently occurs from spring to fall in areas with
11 reefs and other areas of high relief. Recreational
12 fishing occurs at several reefs in LIS that are
13 within two to five nautical miles of the proposed
14 disposal sites. Fish and shellfish areas, occur in
15 nearshore areas and, therefore, are not impacted by
16 this action. A USCG lightering area overlays the
17 northeast corner of the CLIS site. The Corps will
18 coordinate with the USCG to shift the designated
19 anchorage boundary to ensure that existing mounds
20 and future disposed dredged material is not
21 disturbed. The proposed sites are not located in
22 shipping lanes. Energy resources are located near
23 the proposed sites, but no pipelines or cables are
24 within their boundaries. While at the time of this

1 evaluation only three pipelines were in place,
2 development of several new pipelines is
3 anticipated.

4 Furthermore, neither site is an area of
5 specific scientific importance, desalination, fish
6 and shellfish culture or mineral extraction.
7 Accordingly, depositing dredged material at the
8 sites will not interfere with any of the activities
9 mentioned in this criterion. Increased vessel
10 traffic involved in the transportation of dredged
11 material to the proposed disposal sites should not
12 impact shipping or activities discussed above.

13 9. The Existing Water Quality and
14 Ecology of the Sites as Determined by Available
15 Data or by Trend Assessment or Baseline Survey (40
16 CFR 228.6(a)(9)). Water and sediment quality
17 analyses conducted in the site areas and experience
18 with past disposal in this region have not
19 identified any adverse water quality or ecological
20 impacts from ocean disposal of dredged material.
21 Baseline data is further described in the DEIS.

22 10. Potentiality for the Development of
23 Recruitment of Nuisance Species in the Disposal
24 Sites (40 CFR it 28.6(a)(10)). Local opportunistic

1 benthic species characteristic of disturbed
2 conditions are expected to be present and abundant
3 at any ODMDS in response to physical deposition of
4 sediments. However, no recruitment of nuisance
5 species or species capable of harming human health
6 or the marine ecosystem is expected to occur at the
7 sites.

8 11. Existence at or in Close Proximity
9 to the Sites of any Significant Natural or Cultural
10 Feature of Historical Importance (40 CFR
11 228.6(a)(11)). Due to the location of the proposed
12 sites in LIS, the cultural resource that has the
13 greatest potential for impact would be shipwrecks.
14 A review of the existing NOAA and Warren C. Reiss
15 Marine shipwrecks databases illustrated a total of
16 39 shipwrecks in LIS. Although none of the known
17 shipwrecks of historical significance are located
18 within the boundaries of the proposed sites, the
19 central LIS region is known to have at least twelve
20 shipwrecks and the western LIS region is known to
21 have at least four shipwrecks. Undiscovered
22 shipwrecks could occur in the area. As additional
23 sidescan sonar surveys are conducted in the future,
24 and if potential shipwrecks are identified, EPA

1 New England and the Corps' New England District
2 will take appropriate action.

3 The Connecticut State Historic
4 Preservation Officer has determined there are no
5 known historic shipwrecks nor any known aboriginal
6 artifacts at the CLIS and WLIS disposal sites. Two
7 of the region's Indian tribes were included as
8 cooperating agencies during the development of the
9 EIS. The Indian tribes have not identified natural
10 or cultural features of historical significance at
11 either site proposed for designation in this rule.

12

13 E. Proposed Action

14 The DEIS concludes that the proposed
15 sites may appropriately be designated for long-term
16 use as open water dredged material disposal sites.
17 The proposed sites are compatible with the general
18 and specific factors used for site evaluation.

19 EPA is publishing this Proposed Rule to
20 propose the designation of the CLIS and WLIS
21 disposal sites as EPA-approved open water disposal
22 sites. The monitoring and management of
23 requirements that will apply to these sites is
24 described in the draft SMMPs. Management of these

1 sites will be carried out by EPA New England in
2 conjunction with the Corps' New England District.

3 It should be emphasized that, if an
4 ocean disposal site is designated, such a site
5 designation does not constitute or imply Corps or
6 EPA's approval of open water disposal of dredged
7 material from any specific project. Before
8 disposal of dredged material at the site may
9 commence, EPA and the Corps must evaluate the
10 proposal according to the ocean dumping regulatory
11 criteria (40 CFR part 227) and authorize disposal.
12 EPA has the right to disapprove of the actual
13 disposal, if it determines that environmental
14 requirements under the MPRSA or the CWA have not
15 been met.

16

17 F. Statutory and Executive Order Reviews

18 1. Executive Order 12866: Regulatory 19 Planning and Review.

20 Under Executive Order 12866 (58 FR
21 51735, October 4, 1993), the Agency must determine
22 whether the regulatory action is "significant" and
23 therefore subject to OMB review and the
24 requirements of the Executive Order. The Order

1 defines "significant regulatory action" as one that
2 is likely to result in a rule that may:

3 (A) Have an annual effect on the
4 economy of \$100 million or more or adversely affect
5 in a material way the economy, a sector of the
6 economy, productivity, competition, jobs, the
7 environment, public health or safety, or State,
8 local or tribal governments or communities;

9 (B) Create a serious inconsistency or
10 otherwise interfere with an action taken or planned
11 by another agency;

12 (C) Materially alter the budgetary
13 impact of entitlement, grants, user fees, or loan
14 programs or the rights and obligations of
15 recipients thereof; or

16 (D) Raise novel legal or policy issues
17 arising out of legal mandates, the President's
18 priorities, or the principles set forth in the
19 Executive Order.

20 It has been determined that this
21 proposed action is not a "significant regulatory
22 action" under E.O. 12866 and is therefore not
23 subject to OMB review.
24

1 2. Paperwork Reduction Act

2 This final rule would not impose an
3 information collection burden under the provisions
4 of the Paperwork Reduction Act of 1995 (44 U.S.C.
5 3501, et seq.) because it would not require persons
6 to obtain, maintain, retain, report, or publicly
7 disclose information to or for a Federal agency.

8

9 3. Regulatory Flexibility Act (RFA), as Amended by
10 the Small Business Regulatory Enforcement Fairness
11 Act of 1996, (SBREFA), 5 U.S.C. 601 et seq.

12 The RFA generally requires an agency to
13 prepare a regulatory flexibility analysis of any
14 rule subject to notice and comment rulemaking
15 requirements under the Administrative Procedure Act
16 or any other statute unless the agency certifies
17 that the rule will not have a significant economic
18 impact on a substantial number of small entities.
19 For the purposes of assessing the impacts of
20 today's rule on small entities, a small entity is
21 defined as: (1) A small business based on the Small
22 Business Administration's (SBA) size standards; (2)
23 a small governmental jurisdiction that is a
24 government of a city, county, town, school district

1 or special district with a population of less than
2 50,000; and (3) a small organization that is any
3 not-for-profit enterprise which is independently
4 owned and operated and is not dominant in its
5 field. EPA has determined that this action will
6 not have a significant impact on small entities
7 because the proposed open water disposal site
8 designation will only have the effect of providing
9 long term environmentally-acceptable disposal
10 options for dredged materials. This action also
11 provides options which are safe for marine traffic
12 (navigation hazards) on a continuing basis. After
13 considering the economic impacts of today's
14 proposed rule on small entities, I certify that
15 this action will not have a significant economic
16 impact on a substantial number of small entities.

17 4. The Unfunded Mandates Reform Act and
18 Executive Order 12875.

19 Title II of the Unfunded Mandates
20 Reform Act (UMRA), Public Law 104-4, establishes
21 requirements for Federal agencies to assess the
22 effects of their regulatory actions on State, local
23 and tribal governments and the private sector.
24 Under section 202 of the UMRA, EPA generally must

1 prepare a written statement, including a
2 cost-benefit analysis, for proposed and final rules
3 with "Federal Mandates" that may result in
4 expenditures to State, local and tribal governments
5 in the aggregate, or to the private sector, of \$100
6 million or more in any one year. Before
7 promulgating an EPA rule for which a written
8 statement is needed, section 205 of the UMRA
9 generally requires EPA to identify and consider a
10 reasonable number of regulatory alternatives and
11 adopt the least costly, most cost-effective or
12 least burdensome alternative that achieves the
13 objectives of the rule. The provisions of
14 section 205 do not apply when they are inconsistent
15 with applicable law. Moreover, section 205 allows
16 EPA to adopt an alternative other than the least
17 costly, most cost-effective or least burdensome
18 alternative if the Administrator publishes with the
19 final rule an explanation of why that alternative
20 was not adopted. Before EPA establishes any
21 regulatory requirements that may significantly or
22 uniquely affect small governments, including tribal
23 governments, it must have developed under
24 section 203 of the UMRA a small government agency

1 plan. The plan must provide for notifying
2 potentially affected small governments to have
3 meaningful and timely input in the development of
4 EPA regulatory proposals with significant Federal
5 intergovernmental mandates, and informing,
6 educating, and advising small governments on
7 compliance with the regulatory requirements.

8 EPA has determined that this proposed
9 action contains no Federal mandates (under the
10 regulatory provisions of Title II of the UMRA) for
11 State, local and tribal governments or the private
12 sector. It imposes no new enforceable duty on any
13 State, local or tribal governments or the private
14 sector. Similarly, EPA has also determined that
15 this proposed action contains no regulatory
16 requirements that might significantly or uniquely
17 affect small government entities. Thus, the
18 requirements of section 203 of the UMRA do not
19 apply to this rule.

20
21 5. Executive Order 13132: Federalism.

22 Executive Order 13132, entitled
23 "Federalism" (64 FR 43255, August 10, 1999),
24 requires EPA to develop an accountable process to

1 ensure "meaningful and timely input by State and
2 local officials in the development of regulatory
3 policies that have federalism implications."
4 "Policies that have federalism implications" are
5 defined in the Executive Order to include
6 regulations that have "substantial direct effects
7 on the States, on the relationship between the
8 national government and the States, or on the
9 distribution of power and responsibilities among the
10 various levels of government."

11 This proposed rule does not have
12 federalism implications. It will not have
13 substantial direct effects on the States, on the
14 relationship between the national government and
15 the States, or on the distribution of power and
16 responsibilities among the various levels of
17 government, as specified in Executive Order 13132.
18 This proposed rule addresses the designation of
19 open water sites in Long Island Sound for the
20 potential disposal of dredged materials. This
21 proposed action neither creates new obligations nor
22 alters existing authorizations of any state, local
23 or governmental entities. Thus, Executive Order
24 13132 does not apply to this rule. Although

1 Section 6 of the Executive Order 13132 does not
2 apply to this proposed rule, EPA did consult with
3 representatives of State and local governments in
4 developing this rule.

5 In addition, and consistent with
6 Executive Order 13132 and EPA policy to promote
7 communications between EPA and State and local
8 governments, EPA specifically solicits comment on
9 this proposed rule from State and local officials.

10

11 6. Executive Order 13175: Consultation and
12 Coordination With Indian Tribal Governments

13 Executive Order 13175, entitled
14 "Consultation and Coordination With Indian Tribal
15 Governments" (65 FR 67249, November 6, 2000),
16 requires EPA to develop an accountable process to
17 ensure "meaningful and timely input by Tribal
18 officials in the development of regulatory policies
19 that have Tribal implications." "Policies that have
20 Tribal implications" are defined in the Executive
21 Order to include regulations that have "substantial
22 direct effects on one or more Indian tribes, on the
23 relationship between the Federal government and the
24 Indian tribes, or on the distribution of power and

1 responsibilities between the Federal government and
2 Indian tribes."

3 The proposed action does not have
4 Tribal implications. If finalized, the proposed
5 action would not have substantial direct effects on
6 Tribal governments, on the relationship between the
7 Federal government and Indian Tribes, or on the
8 distribution of power and responsibilities between
9 the Federal government and Indian Tribes, as
10 specified in Executive Order 13175. This proposed
11 rule designates open water dredged material
12 disposal sites and does not establish any
13 regulatory policy with tribal implications. EPA
14 specifically solicits additional comment on this
15 proposed rule from tribal officials. Thus,
16 Executive Order 13175 does not apply to this rule.

17

18 7. Executive Order 13045: Protection of Children
19 From Environmental Health Risks and Safety Risks

20 Executive Order 13045 (62 FR 19885,
21 April 23, 1997) applies to any rule that (1) is
22 determined to be "economically significant" as
23 defined under Executive Order 12866, and (2)
24 concerns an environmental health or safety risk

1 that EPA has reason to believe might have a
2 disproportionate effect on children. If the
3 regulatory action meets both criteria, the Agency
4 must evaluate the environmental health and safety
5 effects of the planned rule on children, and
6 explain why the planned regulation is preferable to
7 other potentially effective and reasonably feasible
8 alternatives considered by the agency. This
9 proposed rule is not an economically significant
10 rule as defined under Executive Order 12866 and
11 does not concern an environmental health or safety
12 risk that EPA has reason to believe may have a
13 disproportionate effect on children. Therefore, it
14 is not subject to Executive Order 13045.

15

16 8. Executive Order 13211: Actions That
17 Significantly Affect Energy Supply, Distribution,
18 or Use

19 This proposed rule is not subject to
20 Executive Order 13211, "Actions Concerning
21 Regulations That Significantly Affect Energy
22 Supply, Distribution or Use" (66 FR 8355 (May 22,
23 1001)) because it is not a significant regulatory
24 action under Executive Order 12866.

1
2 9. National Technology Transfer Advancement Act

3 Section 12(d) f the National Technology
4 Transfer Advancement Act of 1995 ("NTTAA"), Public
5 Law 104-113, section 12(d)(15 U.S.C. 272 note),
6 directs EPA to use voluntary consensus standards in
7 its regulatory activities unless to do so would be
8 inconsistent with applicable law or otherwise
9 impractical. Voluntary consensus standards are
10 technical standards (e.g., materials
11 specifications, test methods, sampling procedures,
12 and business practices) that are developed or
13 adopted by voluntary consensus bodies. The NTTAA
14 directs EPA to provide Congress, through OMB,
15 explanations when the Agency decides not to use
16 available and applicable voluntary consensus
17 standards. This proposed rule does not involve
18 technical standards. Therefore, EPA did not
19 consider the use of any voluntary consensus
20 standards.

21
22 10. Executive Order 12898: Federal Actions to
23 Address Environmental Justice in Minority
24 Populations and Low-Income Populations.

1 Executive Order 12898 requires that, to
2 the greatest extent practicable and permitted by
3 law, each Federal agency must make achieving
4 environmental justice part of its mission.

5 Executive Order 128898 provides that each Federal
6 agency must conduct its programs, policies, and
7 activities that substantially affect human health
8 or the environment in a manner that ensures that
9 such programs, policies, and activities do not have
10 the effect of excluding persons (including
11 populations) from participation in, denying persons
12 (including populations) the benefits of, or
13 subjecting persons (including populations) to
14 discrimination under such programs, policies, and
15 activities because of their race, color, or
16 national origin.

17 No action from this proposed rule will
18 have a disproportionately high and adverse human
19 health and environmental effect on any particular
20 segment of the population. In addition, this rule
21 does not impose substantial direct compliance costs
22 on those communities. Accordingly, the
23 requirements of Executive Order 12898 do not apply.
24

1 11. National Environmental Policy Act of 1969

2 Section 102(c) of the National
3 Environmental Policy Act of 1969, section 4321 et
4 seq., (NEPA) requires Federal agencies to prepare
5 environmental impact statements (EIS) for major
6 Federal actions significantly affecting the quality
7 of the human environment. The object of NEPA is to
8 build into the Agency decision-making process
9 careful consideration of all environmental aspects
10 of proposed actions. Although EPA ocean dumping
11 program activities have been determined to be
12 "functionally equivalent" to NEPA, EPA has a
13 voluntary policy to follow NEPA procedures when
14 designating ocean dumping sites. See, 63 FR 58045
15 (October 29, 1998). In addition to the Notice of
16 Intent published in the Federal Register in June
17 1999 (64 FR 29865 (1999)), EPA and the Corps
18 published legal notices in local newspapers and
19 issued a press release inviting the public to
20 participate in DEIS scoping meetings. Three formal
21 scoping meetings were conducted in June 1999. In
22 addition, EPA and the Corps have held public
23 workshops and several working group meetings. As
24 discussed above, EPA is issuing a DEIS for public

1 review and comment in conjunction with publication
2 of this proposed rule.

3 In addition, EPA and the Corps will
4 submit Coastal Zone Consistency determinations to
5 the states of New York and Connecticut for
6 publication in the Final EIS. Coordination efforts
7 with NMFS and USFWS for ESA and EFH consultation
8 was initiated during the DEIS process.

9

10 List of Subjects in 40 CFR Part 228

11 Environmental protection, Water
12 pollution control.

13 Robert W. Varney,
14 Regional Administrator, EPA New
15 England.

16 In consideration of the foregoing, EPA
17 is proposing to amend part 228, chapter I of title
18 40 of the Code of Federal Regulations as follows:

19

20 Part 228 - CRITERIA FOR THE MANAGEMENT OF DISPOSAL
21 SITES FOR OCEAN DUMPING

22 1. The authority citation for part 228
23 continues to read as follows:

24 Authority: 33 U.S.C. 1412 and 1418.

1 2. Section 228.15 is amended by
2 removing and reserving paragraphs (b)(1), and
3 (b)(2); and adding paragraphs (b)(3) and (b)(4) to
4 read as follows:

5

6 228.15 Dumping sites designated on a final basis.

7 * * * * *

8 (b)* * *

9 (1) [Reserved]

10 (2) [Reserved]

11 (3) Central Long Island Sound Dredged

12 Material Disposal Site (CLIS):

13 (i) Location: Corner Coordinates (NAD

14 1983) 41| 09'5"N, 72| 54'4"W; 41| 90'5"N, 72|

15 51'5"W.; 41| 08'4"N., 72| 51'5"W.; 41| 08'4"N., 72|

16 54'4"W.

17 (ii) Size: 2 square nautical miles.

18 (iii) Depth: range from 18 to 23.5

19 meters.

20 (iv) Primary use: Dredged material

21 disposal.

22 (v) period of use: Continuing use.

23 (vi) Restriction: Disposal shall be

24 limited to dredged material from Long Island Sound

1 and vicinity.

2 (4) Western Long Island Sound Dredged
3 Material Disposal Site (WLIS)

4 (i) Location: Corner Coordinates (NAD
5 1983) 41| 00'1"N., 73| 29'8"W.; 41| 00'1" N., 73|
6 28'0"W.; 41| 58'9"N., 73| 29'8"W.; 41| 58'9"N., 73|
7 28'1"W.

8 (iii) Size: 1.2 by 1.3 nautical mile
9 rectangular area.

10 (iii) Depth: range from 24 to 30
11 meters.

12 (iv) Primary use: Dredged material
13 disposal.

14 (v) Period of use: Continuing use.

15 (vi) Restriction: Disposal shall be
16 limited to dredged material from Long Island Sound
17 and vicinity.

18 * * * * *

19 [FR Doc. 03-22645 Filed 9-11-03; 8:45 am]

20

21 * * * * *

22

23 MODERATOR ROSENBERG: A transcript of
24 this hearing is being made to assure a detailed

1 review of all the comments. A copy of the
2 transcript will be available at the EPA New England
3 office in Boston, Massachusetts and at the Corps
4 New England District Headquarters in Concord,
5 Massachusetts. For your review, it will also be on
6 the EPA's website for your use, or you may make
7 arrangements with the stenographer for a copy at
8 your own expense.

9 Individuals speaking today will be
10 called to the microphone in the order that they
11 signed in to speak and as provided for by our
12 hearing protocol that was distributed in the
13 reception area.

14
15 * * * * *

16
17 HEARING PROTOCOL

18
19 1. Corps of Engineers hearings are conducted in
20 accordance with Title 33, Code of Federal
21 Regulations, Part 327. The most recent edition of
22 these regulations was published in the November 13,
23 1986, Federal Register which is available at most
24 libraries.

1

2 2. Either the District Engineer or the Deputy
3 District Engineer (the two top ranking officials at
4 the New England District) normally serve as the
5 presiding officer at the hearing. When neither of
6 them is available to serve, the District Engineer
7 may designate another presiding officer.

8

9 3. The District Counsel or his designee serves
10 as the legal advisor to the presiding officer to
11 advise him on legal matters that may arise. The
12 Chief, Public Affairs or his designee serves as the
13 presiding officer's advisor on all aspects of
14 communication, media relations, local/regional
15 public involvement and interaction, and community
16 relations.

17

18 4. Any person may appear at the hearing on his own
19 behalf or maybe represented by counsel or by
20 another representative.

21

22 5. Hearings will be conducted orderly, but
23 expeditiously, by the presiding officer or hearing
24 moderator/facilitator.

1

2 6. After the opening remarks by the presiding
3 officer, time may be allowed for presentations
4 describing the proposed project.

5

6 7. After the presentations, elected and appointed
7 officials will be given an opportunity to present
8 their official comments regarding the proposed
9 project.

10

11 8. The general public will then have an
12 opportunity to make oral statements, present
13 written statements, make oral presentations and
14 make recommendations as to any appropriate
15 decision. Cross-examination will not be allowed.
16 All questions will be directed to the presiding
17 officer for the record. The hearing will continue
18 until everyone (who has requested) has had a chance
19 to speak. Exceptions to this protocol will be
20 decided by the moderator.

21

22 9. All comments, written and oral, receive equal
23 consideration (lengthy written statements should be
24 summarized orally and the entire written statement

1 submitted for the record).

2

3 10. The presiding officer may establish reasonable
4 time limites for (all) individual comments in order
5 to ensure all who have requested will have an
6 opportunity to speak on the record.

7

8 11. The hearing file will remain open for a period
9 to be determined by the presiding officer from the
10 date of the hearing for the submission of
11 additional statements.

12

13 12. The presiding officer shall have the power to
14 recess or suspend the hearing and, at the presiding
15 officer's discretion, reconvene it at a later date.

16

17 13. A transcript of the hearing will be prepared.
18 Copies may be purchased from the hearing reporter
19 of the Corps of Engineers. A copy will be
20 available for inspection at the New England
21 District headquarters in Concord, Massachusetts.

22

23 * * * * *
24

1 MODERATOR ROSENBERG: When making a
2 statement, please come forward to the microphone,
3 state your name and the interest you represent. In
4 accordance with our protocol for these hearings,
5 all speakers will be provided three minutes, no
6 more.

7 The traffic signal will indicate the
8 following: When the green light comes on that
9 indicates that there's two minutes left; the amber
10 light will indicate one minute; and the red light,
11 of course, indicates the time has expired.

12 Please identify if you're speaking or
13 representing a position of an organization; if
14 you're speaking for yourself, please say so. I
15 want to emphasize that all who wish to speak will
16 have an opportunity to do so. Should we run out of
17 time today, those who have signed up to speak will
18 be contacted individually by the Environmental
19 Protection Agency, or the United States Army Corps
20 of Engineers in the very future to make further
21 arrangements for you to provide us your comments.

22 While we have the individuals that have
23 signed in today, none have indicated a desire to
24 speak. Should you wish to speak, please indicate

1 so, and I will call you down to the microphone, at
2 which time you will be given that opportunity. And
3 again, oral and written statements receive equal
4 consideration in making our decision. Therefore,
5 if you have lengthy written statements, summarize
6 to fit the limitation, and enter the entire
7 statement for the record.

8 Is there anyone here that has filled
9 out a card that wishes to provide comment on the
10 record at this point?

11 Mr. Cote, there is nobody here to sign
12 up at this time. I would like to recommend that we
13 recess until an individual may or may not show up
14 this afternoon. At four o'clock, we break for a
15 recess until our seven o'clock hearing this
16 evening.

17 MR. COTE: That's fine.

18 MODERATOR ROSENBERG: Thank you. This
19 hearing is now in recess. We will remain here
20 until 4:00 p.m. to receive comments; and at 4:00
21 p.m. we will recess, until the 7:00 p.m. session.
22 Registration for the evening session begins at
23 6:00. This hearing is now in recess.
24 Thank you.

1 (Whereupon, at 2:02 p.m., the hearing
2 was suspended.)

3 MODERATOR ROSENBERG: Ladies and
4 gentlemen, I reconvene this hearing.

5 Our next individual to give testimony
6 will be Richard Mendelman.

7 Sir.

8 RICHARD MENDELMAN: I'd like to
9 introduce myself a little bit. My name is Richard
10 Mendelman, and I am president of Seacoast
11 Enterprises Associates, which operates three
12 marinas in Three Mile Harbor.

13 I'm also a Vice President of the South
14 Fork for the Association of Marine Industries,
15 which covers the five eastern towns of Long Island.
16 I'm a member of the Empire State Marine Trades
17 Association, which covers the six regional
18 associations in New York state.

19 These are my own comments; however, you
20 can't get away from the individuality and speak for
21 the group, so I'll just try and bring you
22 up-to-date on the dredging initiatives that we have
23 tried to put together.

24 With regard to the Peconic Estuary,

1 which I am a member of the Citizens Action
2 Committee and ex-officio of the Management
3 Committee of the Peconic estuary. Now, the Peconic
4 Estuary is now taking an initiative through Mike
5 DeLuca, Ph.D., of the Suffolk County Health
6 Department in order to bring together a dredging
7 windows workshop, which would cover those windows
8 that it would give the opportunity to dredge in a
9 specific environment. The windows would be brought
10 together or determined for certain things like
11 piping plover, nesting, or flounder runs in those
12 periods when the environment is threatened by or is
13 active; and those windows would allow a certain
14 area, for instance, from November to maybe
15 January 15th, or when there isn't environmental
16 changes that dredging could occur.

17 So after this dredging windows
18 workshop, we would -- which specifically is tied to
19 the Peconic Estuary, we would try to get together a
20 marina, or a dredging summit, and that dredging
21 summit, even though it would be regional, would
22 address most of the issues that have to do with
23 dredging in the United States, whether it's
24 federally or specifically to dredging in Long

1 Island Sound or anyplace.

2 So, some of these being my initiatives,
3 I appreciate being on the mailing list and having
4 this Environmental Impact Statement with
5 designation of dredged material disposal in sites
6 in Central and Western Long Island.

7 So, as soon as you see the word
8 disposal in my mind, since I'm a mechanical
9 engineer and have strived to bring my input into
10 pollution prevention, I see that even though it's
11 generally stated through the -- out here that
12 disposal becomes a word that you have to define; so
13 in this dredging windows workshop that we're
14 working on, we're bringing together an acronyms and
15 a definition of some of the words that we use when
16 it pertains to dredging.

17 One of the words that I don't think
18 should ever be used in -- when applied to dredging
19 is spoils. I know in the Ohio River Valley they
20 use it, and they say this is a spoils site. Well,
21 spoils has a connotation that it has something that
22 is not good; and when you look at dredged material,
23 you have to assay it in order to determine if
24 it's -- it has any pollutants in it or heavy

1 metals, or whatever you have, but in essence,
2 dredged materials are dredged because of three
3 things: circulation, flushing, and navigation. It
4 seems that when you put material and take material
5 from one place and you dispose of it, there is no
6 such thing. It seems as we get to the -- these
7 modern times, as disposal, the landfill sites are
8 being closed, because you cannot dispose of
9 something in those landfill sites.

10 Staten Island, Fresh Kills, you know
11 that that is closed. So where does the material
12 that you want to dredge from, whether it's the
13 Mamaroneck or the Connecticut River, is going to be
14 put; and then as you determine whether this
15 material that you're going to put at the disposal
16 site is just material that is located -- relocated
17 to a different place.

18 So, one thing that I want to address in
19 the Draft Executive Study is that the word disposal
20 should not be used and that the word should
21 designate or be defined as a materials relocation
22 site.

23 When you use acronyms, there should be
24 a -- a listing of all acronyms in an appendix to

1 your document. Please bear with me as this is
2 expert -- expertainious (phonetic spelling). So as
3 you continue and you say those certain
4 alternatives, and the alternatives brings to
5 mind -- this is on page ES-3, that instead of
6 alternatives to where you're going to put this
7 material, it's actually an alternate opportunity.
8 Being that the dredged material, if there was
9 something wrong with it, whether it's PCBs up in
10 the Hudson River Valley, or something else,
11 normally I would say 90 to 95 percent of the time
12 the material has been relocated because of some
13 kind of siltation. And siltation is something in
14 the marine world which is convex; and because it
15 hampers flow, siltation as it comes after a storm,
16 or some kind of hydrological habitat modification,
17 if that convex siltation hampers flow, it's just
18 like a pothole on the highway, which is concave.
19 It hampers flow. And once you have a pothole, it's
20 automatically thought of as something that has to
21 be fixed, because just like having an artery in the
22 heart being impeded, it shows signs of something,
23 and something has to be repaired or fixed. So just
24 as the siltation happens in the water, it's not

1 automatic any more as to where that material is to
2 be relocated, or you have to go through so many
3 agencies in order to determine that you can do
4 this, just as we're doing in this meeting and
5 having public comment and so on, as to whether we
6 should put the material in the middle of Long
7 Island Sound at those areas, which are designated
8 as material relocation sites.

9 So my comments today specifically talk
10 about the solution to the siltation problems in the
11 waterways, which have to do with navigation,
12 because some -- and that is immediately produces
13 some complaints; or in certain instances where you
14 have circulation and you have the progression of
15 phragmite where there is no flushing or no
16 circulation or something that has been fed from the
17 run -- stormwater runoff, which would be from the
18 nitrates and nitrites and the increased
19 fertilization, you might say, of the shoreline
20 where the invasive species catch ahold, and then
21 people start complaining, because they can't see
22 the water, which is scenic, or they can't -- or it
23 hampers flow, or it starts to get into a marsh or
24 swamp environment, which nature wants to go back to

1 in some cases and start to satisfy nature going
2 back to a good environment, which means that they
3 would produce a smell, whether it's sulfides or so
4 on from a swamp; and in the areas where people have
5 congregated to the shoreline, being that 80 percent
6 of the people live in the 20-mile zone from the
7 shoreline, and 20 percent of the people live in the
8 prairie, you might say.

9 So I go into this, and I'm sorry I
10 haven't prepared any statements, but these are just
11 comments that we -- that are the ones that produce
12 the regulations and so on can't -- cannot look at
13 it just from a troglodyte or cave-dweller
14 philosophy.

15 Now, I bring that up because the people
16 that live in the caves, if they put their material
17 into a dumbwaiter, as soon as they shut the door
18 it's out of sight, out of mind. When they flush
19 the toilet, whatever they flush, that is out of
20 sight and out of mind. When they walk out of their
21 caves, it becomes -- they expect the doors to open
22 for them. And then they want to get away from the
23 caves, and they come out into the prairie,
24 sometimes they get lost, because they're finding

1 their way, and sometimes they come out, and they
2 want to tell you how and why and where you should
3 put your materials. The same thing is addressed in
4 this DEIS for the Sound here.

5 I believe that whatever you do in
6 putting the materials on the bottom of Long Island
7 Sound doesn't mean too much; however, being that
8 there is an alternate opportunity, maybe this
9 material should be put on the land side instead of
10 the water side and build up as an asset beaches,
11 build up maybe wetlands, instead of looked at as
12 something that has to be gotten rid of. We can't
13 stop at the point where we say we dispose of it,
14 because it's not disposed. And, therefore, I
15 reiterate again, that I'm all for dredging. I'm
16 all for putting the material wherever the agencies
17 designate it as good, but I also would say that you
18 should look at it as an asset instead of a
19 liability.

20 And there's the other thing that the
21 material could also be put into islands where it
22 can be recouped as needed. I recall that in
23 the -- I don't know if it was Sayreville or -- no,
24 one of the county parks that they dredged -- took

1 the material that was dredged from the development
2 and the canals on the South Shore of the island,
3 and they put it out into an area where it was
4 drained. And this gentleman, I guess, was using it
5 to produce some very good topsoil by mixing it with
6 sand. Now, instead of having an area to deposit
7 the material, that area is being -- it was recouped
8 for a state park, and now the state park will not
9 allow any more material to be put next to the state
10 park, because it might smell.

11 In the process then, if you take that
12 material that was dredged in a specific area, and
13 it was relocated to a site that might be 500 meters
14 to let's say a thousand to 2,000 yards away, now if
15 they were to do any dredging in the great south
16 bay, in that area, you might have to deposit
17 material two or three miles away, if that would be
18 even feasible. So the cost of the dredging
19 operation is something that is not being looked at
20 specifically in order to make it less than it is to
21 make it more.

22 The windows of opportunity for the
23 dredging crews has gone down to such a point where
24 you take people that you hire off the street, and

1 you can't expect those people to operate a dredge
2 and know what they're doing. So some of the
3 intelligence that we're losing in New York state is
4 going to -- as far down as South Jersey and into
5 Maryland to find people that have the expertise to
6 do the dredging.

7 So you can see, in conclusion, that I'm
8 definitely and the marine industry is definitely
9 for promoting navigation, circulation and flushing,
10 and it's for dredging on an optimum easy basis
11 where we can do this for benefic -- the benefit of
12 the environment, wherever the case. And I think 90
13 to 99 percent of every dredging operation is for
14 the benefit of the environment.

15 Thank you.

16 MODERATOR ROSENBERG: Thank you, sir,
17 and you are invited to, when you have your
18 statement prepared, to send it to Ann Rodney at the
19 US EPA. It needs to be submitted by 5:00 p.m. on
20 November 17th.

21 At this point, this hearing is back
22 into recess.

23 Thank you.

24 (Whereupon, at 3:23 p.m., the hearing

1 was recessed.)

2 MODERATOR ROSENBERG: Ladies and
3 gentlemen, it is now 4:00 p.m., and we will recess
4 this hearing until 7:00 p.m. this evening.

5 Registration for our evening session
6 begins at 6:00.

7 This hearing is now in recess.

8 Thank you.

9
10 (Whereupon, at 4:01 p.m., the hearing
11 was suspended.)

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1 E V E N I N G S E S S I O N

2

3 MODERATOR ROSENBERG: Good evening.

4 Good evening. I am Larry Rosenberg, Chief of
5 Public Affairs for the United States Army Corps of
6 Engineers in New England. I would like to welcome
7 you to this public hearing held in conjunction with
8 the government's release of the Draft Environmental
9 Impact Statement for the Designation of Dredged
10 Material Disposal Sites in Central and Western Long
11 Island Sound, Connecticut and New York.

12 This hearing is being held in
13 accordance with the National Environmental Policy
14 Act for the sole purpose of listening to you.

15 Before we begin, I would like to thank
16 you for getting involved in this environmental
17 review process. You see, we're here to listen to
18 your comments, to understand your concerns and to
19 provide you an opportunity to put yourself on the
20 record should you care to do so. As I said, this
21 hearing is yours.

22 Our Hearing Officer this evening is Mr.
23 Mel Cote, Manager of the Water Quality Unit of the
24 Office of Ecosystem Protection for the

1 Environmental Protection Agency, New England Region
2 that is headquartered in Boston, Massachusetts.

3 Other federal representatives here with
4 me this evening are: From the EPA, Jean Brochi and
5 Ann Rodney; and from the Corps, Mark Habel, our
6 Project Manager; Susan Holtham, the Army Corps' EIS
7 Manager; Dr. Tom Fredette, the Corps' New England
8 DAMOS Program Manager responsible for the
9 monitoring and managing of all dredged materials
10 disposal sites around New England; and the staff of
11 the Public Affairs Office, who you met as you
12 entered this facility.

13 The agenda this evening is following
14 this introduction, Mr. Cote will address the
15 hearing. He will be followed by the Corps' Project
16 Manager, Mark Habel, who will provide an overview
17 of the Corps' role and discuss recommended dredged
18 material disposal with a focus on the purpose and
19 the need for the designation. Mark will then
20 introduce Dr. Carlton Hunt from Battelle, a
21 contractor for the Army Corps of Engineers; and Dr.
22 Drew Carey from Coastal Visions together who will
23 make a 30 minute or so presentation on the EIS
24 process and the recommendations. I will then open

1 this hearing to public comment utilizing the
2 hearing protocols.

3 Should you need copies of the Federal
4 Register notice, the hearing protocols, or other
5 pertinent information, it is available at the
6 registration table.

7 I should point out that the government
8 has made no final decisions regarding the final
9 outcome of this very public process.

10 You know, as a direct result of the
11 comments and concerns that were already raised by
12 the public, the EPA and the Corps have decided to
13 extend the public comment period for this Draft
14 Environmental Impact Statement by 21 days. The
15 comment period will now close at 5:00 p.m. on
16 September -- I'm sorry -- on November 17th.
17 Further, the EPA and the Corps may hold additional
18 public hearings on the Draft EIS in early November.

19 Before you begin -- before we begin, I
20 would like to remind you of the importance of
21 filling out the cards that were available at the
22 door. These cards serve two purposes. First, they
23 let us know that you're interested in this project.
24 Then we can keep you informed.

1 Second, they provide me a list of those
2 who wish to speak this evening. If you did not
3 complete a card, but wish to speak or receive
4 future information regarding this project, one will
5 be provided at the registration desk.

6 One additional comment, we are here to
7 receive your comments, not to enter into discussion
8 of those comments, or to reach conclusions. Any
9 questions you have should be directed to the record
10 and not the individuals on the panel.

11 Thank you very much.

12 Ladies and gentlemen, Mr. Cote.

13 HEARING OFFICER COTE: Thank you,
14 Larry, and good evening, everyone.

15 As Larry noted, my name is Mel Cote. I
16 manage the Water Quality Unit in the US
17 Environmental Protection Agency's New England
18 Regional Office.

19 Thanks for coming to this public
20 hearing. Whether it's to voice support for or
21 concerns about federal action proposed in this
22 Draft EIS, or simply to learn more about the
23 project, we welcome your participation. EPA
24 published a Federal Register notice and issued a

1 press release on September 12th announcing the
2 availability of the Draft EIS for public comment
3 until October 27th. We posted the Draft EIS on our
4 website, mailed notices and copies of the Draft EIS
5 and supporting documents that most people should
6 have received by September 15th. This is
7 consistent with ongoing efforts throughout the EIS
8 process to provide the public with ample
9 opportunity to get information about the project
10 and to give us their feedback. However, as
11 discussed by Larry, in response to some comments we
12 have already received, we are extending the public
13 comment period until November 17th, and may
14 schedule additional public hearings toward the end
15 of the comment period. We will formally announce
16 this extension through another Federal Register
17 notice and mailing within the next couple of weeks.
18 With that said, we are here tonight to listen to
19 and record any comments that you may have on the
20 Draft EIS based on your review so far.

21 EPA and the US Army Corps of Engineers
22 jointly regulate dredged material disposal under
23 federal authorities provided under Section 404 of
24 the Clean Water Act and Section 103 of the Marine

1 Protection, Research and Sanctuaries Act, which is
2 also known as the Ocean Dumping Act.

3 In administering these programs, we
4 work closely with other federal resource management
5 agencies like the National Marine Fisheries Service
6 and US Fish and Wildlife Service and the state
7 environmental agencies to ensure proper
8 coordination and consistency with statutory and
9 regulatory requirements and environmental
10 standards.

11 Since 1980, the EPA and the Corps have
12 applied -- have been applying the sediment testing
13 requirements of the Ocean Dumping Act to all
14 federal projects, all federal dredging projects,
15 and to private projects generating 25,000 cubic
16 yards of dredged material or more. Dredged
17 material that meets these criteria and is
18 determined to be suitable for ocean disposal is
19 disposed of at one of the four sites that were
20 evaluated and chosen as disposal sites pursuant to
21 programmatic and site specific environmental impact
22 statements by the Corps in 1982 and 1991. These
23 sites are known as the Western Long Island Sound,
24 Central Long Island Sound, Cornfield Shoals and

1 New London disposal sites.

2 In 1992, Congress added a new provision
3 to the Ocean Dumping Act that, for the first time,
4 established a time limit on the availability of
5 Corps-selected sites for disposal activity. The
6 provision allows the selected sites to be used for
7 a five-year period beginning with the first
8 disposal activity after the effective date of the
9 provision, which was October 31, 1992, and for an
10 additional five-year period beginning with the
11 first disposal activity commencing after completion
12 of the first five-year period.

13 Use of the site can, however, be
14 extended if the site is designated by EPA for
15 long-term use. Thus, the Corps can select disposal
16 sites only for short-term limited use; whereas,
17 Congress authorized the EPA to undertake long-term
18 site designations subject as to ongoing monitoring
19 requirements to ensure that the sites remain
20 environmentally sound.

21 Periodic dredging and, therefore,
22 dredged material disposal are essential for
23 ensuring safe navigation and facilitating marine
24 commerce. EPA believes it's preferable from an

1 environmental perspective to dispose of dredged
2 material in only a few discreet locations so that
3 they can be more easily managed and monitored to
4 reduce potential adverse impacts on the surrounding
5 marine environment. With a continuing need for
6 dredged material disposal sites and the impending
7 exploration of the short-term site selections by
8 the Corps for the four current dredged material
9 disposal sites in Long Island Sound, the Corps was
10 faced with the prospect of having to continue to
11 select new disposal sites that could only be used
12 for a maximum of two five-year periods. In the
13 long term, this would result in proliferation of
14 disposal sites throughout the Sound. And that is
15 why we're here tonight.

16 In 1998, EPA and the Corps agreed to
17 conduct a formal site designation process following
18 the criteria established in the Ocean Dumping Act.
19 We also agreed that, consistent with past practice
20 in designating disposal sites, we would follow
21 EPA's "Statement of Policy for Voluntary
22 Preparation of National Environmental Policy Act
23 (or NEPA) Documents," and would prepare an
24 Environmental Impact Statement to evaluate

1 different dredged material disposal options. EPA
2 and the Corps have tried to prepare this Draft EIS
3 to be consistent with EPA's NEPA-implementing
4 regulations, as well as those promulgated by the
5 Council on Environmental Quality for additional
6 guidance. We began this effort in 1999, but were
7 slowed by both the technical complexities and
8 financial constraints associated with a
9 large-scale, multiple-site project.

10 In March 2002, facing the prospect of
11 losing the use of the Corps-selected Central Long
12 Island Sound disposal site, which are the most
13 heavily used of the four sites in Long Island
14 Sound. In February of 2004, when the second of two
15 five-year periods of use expires, the EPA and the
16 Corps announced their intent to develop the EIS in
17 two phases, Western and Central Long Island Sound
18 first, followed by the Eastern Sound once the site
19 or sites had been designated in the western and
20 central regions. This approach would yield a
21 schedule to meet the important public need to
22 consider disposal sites in this region more
23 expeditiously without compromising the continued
24 objectivity in the decision-making process for each

1 region of the Sound. Although the EPA is the
2 agency authorized by the Ocean Dumping Act to
3 designate dredged material disposal sites, the
4 Corps is participating in the development of the
5 EIS as the cooperating agency, because it has
6 knowledge concerning the needs of the dredging
7 program as well as technical expertise in the area
8 of assessing environmental effects of dredging and
9 disposal.

10 Also as a result of the 1998 agreement,
11 the Corps is providing technical and financial
12 support in the development of the EIS, but all
13 final decisions regarding any site designations
14 will be made by the EPA. To take advantage of
15 expertise held by other entities and to ensure
16 compliance with all applicable legal requirements,
17 EPA is also closely coordinating this effort with
18 other federal agencies like the National Marine
19 Fisheries Service and Fish and Wildlife Service,
20 Indian tribal governments, state environmental and
21 coastal zone management agencies and local
22 governments, some of which are participating as
23 cooperating agencies. EPA and the Corps also have
24 conducted extensive public participation

1 activities, including numerous workshops and
2 informational meetings to explain the process and
3 disseminate technical findings and to solicit
4 feedback from the public to help guide the process.

5 We're here tonight to present
6 information on the Draft EIS that evaluates
7 disposal options for the western and central
8 regions of Long Island Sound and to solicit
9 feedback on this document and the federal action it
10 proposes in the form of oral or written comments.
11 These comments will be given equal consideration
12 upon completion of the public comment period for
13 the purposes of finalizing the EIS and issuing a
14 final rulemaking. The final EIS will include
15 responses to all significant comments that we
16 receive. For accuracy of the record, and to repeat
17 what Larry said, your written comments should be
18 sent to Ann Rodney at the EPA New England Regional
19 Office. You should have the address. If you
20 don't, make sure you get it before you leave. And
21 they will be accepted until 5:00 p.m. on Monday,
22 November 17th.

23 Thank you again for your participation
24 in this public hearing and for your interest in the

1 issue of dredged material management in Long Island
2 Sound.

3 MODERATOR ROSENBERG: Thank you, sir.

4 Ladies and gentlemen, Mark Habel, the
5 Corps' Project Manager.

6 MR. HABEL: Good evening. As Larry
7 stated, my name is Mark Habel. I'm the Corps of
8 Engineers New England District Project Manager for
9 this study.

10 In early 1998, EPA and the Corps began
11 their study of the need for and acceptability of
12 designating ocean disposal sites for dredged
13 material in Long Island Sound. An early part of
14 this effort involved examining the present and
15 long-term need for dredging from the ports and
16 harbors of the Sound in both Connecticut and New
17 York.

18 There are more than 50 federal
19 navigation projects and hundreds of non-Federal
20 public and private navigation-dependent facilities
21 on the Sound that require periodic dredging to
22 maintain safe navigable depth. Vessels from large
23 cargo carriers to small fishing and recreational
24 craft depend on adequate channel depths to operate.

1 Some material dredged from these
2 harbors is clean sand, suitable for use as
3 nourishment of area beaches when available.
4 However, the majority of all material dredged from
5 the Sound's harbors has for many decades been
6 placed at open water sites in the Sound. Prior to
7 the 1980s there were as many as 20 sites that
8 periodically received dredged material.

9 Since that time, only four sites have
10 been in use and receive a total on average of about
11 1 million cubic yards of material annually. All of
12 this material must undergo a rigorous series of
13 physical, chemical and biological testing to prove
14 its suitability for placement in the Sound.

15 An investigation into the economic
16 importance of navigation-dependent industries to
17 the Long Island Sound region found that these
18 industries contribute more than 52,000 jobs and
19 over \$1.5 billion annually to the economy of the
20 area. Dredging is the key to the continued health
21 of this sector of the Connecticut and New York
22 economies.

23 Please take time, if you haven't
24 already, to examine the poster displays located in

1 the lobby. One of these shows the locations of the
2 several dredging centers located around the Sound.
3 It is these ports and harbors that generate the
4 economic benefit of navigation and the region's
5 dredged material.

6 This study focused on consideration of
7 impact on the natural and human environment
8 including both natural resources and economics. It
9 was concluded that the capacity of non-in-water
10 disposal alternatives cannot meet the dredged
11 material disposal needs of the Central and Western
12 Long Island Sound region. While individual
13 projects must assess nonopen-water alternatives on
14 a case-by-case basis, designation of one or more of
15 open water dredged material disposal sites in Long
16 Island Sound is necessary to meet the long-term
17 regional needs of navigation in the Sound.

18 And I would like at this point to
19 introduce Dr. Carlton Hunt of Battelle and Dr. Drew
20 Carey of the Coastal Division, who will together
21 make a presentation on the EIS process and its
22 recommendation.

23 DR. HUNT: Good evening. As Mark
24 indicated, I'm Carlton Hunt, and we're going to do

1 a bit of a tag team; and I'll talk for a moment
2 about EIS, and then Drew will talk, and I will come
3 back and close in terms of the preferred
4 alternatives presentation.

5 What we're going to provide tonight is
6 an overview of the EIS process, present the
7 findings of the Draft EIS, review the
8 preferred -- excuse me -- review the proposed
9 preferred alternatives and convey the next steps in
10 the EIS process.

11 The decision to prepare the EIS led to
12 a Notice of Intent, which then led to scoping
13 meetings that were throughout the region. In
14 parallel with that and after that, there were
15 literature studies done, literature searches
16 completed as well as field and laboratory studies
17 to examine the environment that we're talking
18 about. That information was brought together in
19 this Draft EIS that you have before you, as well as
20 a site management and monitoring plan for each
21 location was developed.

22 The comment period that we're in right
23 now will lead -- and public hearings will lead to a
24 response to comments from all the comments that are

1 received. From those, a final EIS will be
2 prepared. That final EIS and final rule and final
3 site management and monitoring plans will be made
4 available for a 30-day comment period, and then the
5 Record of Decision will be made; and at that point,
6 the designation will be completed in terms of the
7 decision that's made.

8 What I would like to do now is have Dr.
9 Carey talk to you about the history of the Sound
10 leading up to that, and I'll pick up the
11 presentation again.

12 DR. CAREY: Thanks, Carlton.

13 I'm just going to cover these four
14 general parts of the early, really the first phase
15 of the study that was conducted for this EIS.

16 The initial announcement of the project
17 was when the deliberations first became public, and
18 really from the beginning there was a cooperative
19 involvement of federal and state agencies and
20 public involvement.

21 And it was determined at the beginning
22 that the studies, in order to support this EIS,
23 needed to be conducted throughout the Sound. I'm
24 going to go back and cover each of these points in

1 a little more detail.

2 In 1999, as Mel mentioned, this was
3 published in the Federal Register; and at that
4 point, really, the EPA and the Corps formed their
5 team for this project and began to involve other
6 agencies.

7 That agency involvement continued
8 really through to today. I'm going to touch on
9 some of the specific points of that involvement to
10 show you how that process worked. Initially, we
11 had some discussions about sort of where and when
12 disposal has occurred within Long Island Sound, how
13 it would fit into an overall study of potential
14 impacts of site designation. Then we held
15 discussions about what this process should be, what
16 the steps for an order of that process would be and
17 make sure that all the agencies involved had some
18 sense of that.

19 Then prior to the public scoping, there
20 was some discussion within those agencies of what
21 studies might be required, taking the expertise
22 within state, local and federal agencies throughout
23 the region as to what data they may have, what data
24 may be available in the public record, and what

1 areas would be most critical to fill in. Then that
2 process would have been to the public arena.

3 There was also a determination of what
4 the zoning site of feasibility would be. This is
5 the area in which you look for an alternative
6 placement; if you were trying to designate a site,
7 you decide how big of an area is it reasonable to
8 look.

9 Following that, there was a review of
10 any alternatives to open water disposal that might
11 be available, you know, to consider during this
12 process.

13 As the data collection and planning got
14 done and the data came back -- came back, these
15 agencies had an opportunity to look at that data
16 prior to public release; and again, when we went
17 through the process that Carlton will describe of
18 selecting open-water alternatives to review,
19 agencies were directly involved beyond the EPA and
20 the Corps in -- in doing that.

21 And then finally, the preferred
22 alternatives recommendation, which is being
23 presented today, was again a process that was
24 engaged in by all the federal and state agencies

1 that chose to become involved.

2 The public involvement in essentially
3 followed each of those steps as well. After the
4 agencies met and made some determinations, there
5 would be a public hearing, or a public workshop or
6 some form of a public process to involve any
7 interested parties and the public.

8 In -- the first public scoping meetings
9 were held in 1999, and this was an opportunity for
10 the public. We held one here that -- not in this
11 building, but in this area, to allow the public to
12 comment on what they thought should be done in the
13 study, what concerns they might have, what issues
14 should be addressed.

15 Then beginning i October of 1999, we
16 moved out of the formal hearing process and held
17 public workshops, which allowed for a dialogue, a
18 discussion between the public and the agencies, and
19 scientific experts gathered to conduct the study.

20 The first workshops involved trying to
21 understand what the needs for dredging might be,
22 how to go about accomplishing that, what sort of
23 alternatives should be considered, how we might go
24 through a site screening process that you'll hear

1 about and also later the data review, what kind of
2 data was coming out, and get some feedback and
3 recommendations on how we should evaluate and weigh
4 different factors during that site screening
5 process.

6 To go a little bit further, we
7 established a volunteer working group. This was a
8 more focused effort. It didn't involve as large a
9 public meeting; and again, it really was any
10 interested representatives of the marine industry,
11 recreational boaters, environmental groups, the
12 fishing industry, local towns, and really anybody
13 who cared to be involved could be involved in a
14 working group, and it was more focused and more
15 deliberate than the public workshops, which
16 necessarily involve more people.

17 To give you an idea of how frequently
18 these groups met after that initial public
19 workshop, we held another one in April of 2000, and
20 then we initiated a whole series of working group
21 meetings beginning in July of 2000, and then
22 essentially every year thereafter in the spring
23 until 2002, when the pace accelerated. And the
24 reason for that is that the data became available

1 from the studies that had been processed and
2 analyzed, and there was really something more
3 substantive to talk about and review that data
4 product, work it into the site screening process.
5 And then we followed that with a working group
6 meeting this September, just prior to this public
7 hearing, where the working group had an opportunity
8 to look at some of the documents and provide some
9 feedback on that.

10 The initial studies, which were
11 conducted in the first phase of this EIS process,
12 really focused on field data collection. We had to
13 get out in the field and collect data as quickly as
14 possible; that is driven by weather and season.
15 And some of this data takes us a long time to work
16 up. That was the priority.

17 It was followed by discussion and
18 assessment of potential alternatives to open-water
19 disposal, also looking at treatment technologies,
20 and then later a survey of dredging needs and
21 assessment of economic significance. I'm going to
22 come back to each of these points in a little bit
23 more detail.

24 So after those meetings in '99, we had

1 enough information from other agencies and from the
2 public to begin developing essentially a data
3 collection plan. There was pretty extensive areas
4 of data gaps in terms of sediment, understanding of
5 the sediment, understanding of the biota within the
6 Sound, and we came up with a couple of different
7 strategies. One of them was that the -- determined
8 it was advisable to revisit the active disposal
9 sites, partly because they were active throughout
10 the last 20 years in most cases, and also they were
11 clearly identified as potential areas that we
12 should gather baseline data in case they might be
13 selected as alternatives. So Western, Central,
14 Cornfield and New London, as well as the whole
15 Sound, were part of that initial data design.

16 We developed a data sampling scheme
17 that allowed us to both look at potential
18 historical information from those sites as well as
19 collecting baseline characterization of what the
20 sites are like today.

21 We collected sediment samples, because
22 the repository of much of that information and
23 because a lot of dredged material is deposited at
24 those sites, and there is some information

1 available in the sediments. We look at physical
2 characteristics. We looked at chemical
3 characteristics. We looked at the potential of the
4 impact of those sediments directly on organisms as
5 well as what benthic organisms lived in those
6 locations.

7 In addition to this, we collected fish,
8 lobster, worm and clam samples throughout the
9 Sound, looking at the Sound as a whole with some
10 additional samples at specific sites. We teamed
11 with the Connecticut Department of Environmental
12 Protection that does an intratrawl survey several
13 times a year. We were able to team with them and
14 collect finfish that they trawl, do additional
15 sampling of lobster, worm and clams and look at the
16 tissue concentrations of those contaminants.

17 In addition, we took some effort to
18 look at the trawl data, which is really fish,
19 abundance, size, frequency throughout the Sound to
20 determine whether we could see any patterns in
21 those fish abundances, which might reflect on
22 either disposal activity or on potential risks to
23 those populations.

24 As part of the understanding of the

1 context really of open water disposal, it was
2 important to consider what other alternatives there
3 might be. The site designation process is looking
4 at open water disposal, but you also need to
5 understand if it's necessary, that is, are there
6 are other things that could be done.

7 So looking at beneficial reuses is a
8 important piece, looking at upland, perhaps use for
9 landfill cover, asphalt production, remediation of
10 sites, as well as potential technologies that can
11 take the small fractions of dredged material that
12 is contaminated and either remove or sequester the
13 contaminants in it so that it can be used for other
14 kinds of activities, some kind of reuse.

15 In order to understand the driver
16 really of this EIS, it was important to understand
17 how much dredging might need to be accomplished
18 within Long Island Sound as a whole. We took a
19 20-year window and tried to determine for existing
20 approved navigation projects what would the need be
21 to maintain those projects over that 20-year
22 window. For purely Corps-driven projects, that is
23 authorized navigation projects, we came up with
24 close to 23 million cubic yards. This was based on

1 surveys and studies of the process of dredging over
2 a long period of time.

3 Surveying other federal and private
4 projects, whether it be the Coast Guard Marina, for
5 instance, or a private boatyard, we came up with a
6 little over 9 million cubic yards over that time;
7 and looking at proposed projects that might require
8 deepening of a channel or opening of a berthing
9 area about 1.3 million cubic yards.

10 That data was then analyzed in terms of
11 something we call dredging centers, that is,
12 looking at the need for dredging in specific areas.
13 I'm not going to touch on this very long. There is
14 a poster outside that you can look at. The key
15 thing here is that a dredging center, such as the
16 area around Bridgeport has been coded with the
17 federal projects; the navigation projects in blue
18 and in gray are the private or other projects. So
19 a dredging center, such as Port Jefferson here is
20 dominated by private needs and a very small volume
21 of federal needs; whereas, Bridgeport has a large
22 federal navigation need, and in contrast relatively
23 small private needs.

24 We also looked at what would be the

1 consequences of not maintaining these navigation
2 channels, because there are many industries in the
3 region that are dependent on navigation --
4 navigable channels in order to continue to
5 function. We came up with just under 53,000 jobs
6 directly related to these navigation-dependent
7 industries and millions of dollars of various ways
8 that they fit into the economy.

9 So our conclusions after this initial
10 set of studies that were driven by the need to get
11 out and provide some initial information were that
12 it was clear that the dredging of the rivers and
13 harbors in the Sound is critical for the economic
14 welfare of this region.

15 Secondly, the capacity of the known
16 upland or beneficial use or even treated material
17 approaches doesn't come close to meeting the needs
18 of dredging projected over a 20-year horizon. It's
19 important to note that any individual project that
20 would go for a permit must consider all these
21 alternatives. So on a project-by-project basis,
22 every project has to examine whether it could be
23 used for beach nourishment; is it suitable
24 material; could it be placed on an upland site?

1 And only if that is not possible for that project
2 would it be considered for open water disposal.
3 But on a regionwide basis, there is not enough
4 capacity based on our studies to accommodate all
5 the material that is projected.

6 And last, it's clear that one or
7 perhaps more open water disposal sites would be
8 needed or necessary in order to meet that
9 projection of dredging needs within this area.

10 At this point, I'm going to turn it
11 back to Carlton, who will start-up really with the
12 second phase of studies.

13 DR. HUNT: Thank you, Drew.

14 As you have heard, in March of 2002,
15 there was a determination made that in order to
16 accomplish the designations in the Western and
17 Central part of the Sound, that the zoning site of
18 feasibility be reduced.

19 Secondly, the reason that that zone of
20 siting feasibility could be reduced to address
21 those two areas of the Sound were that the
22 geographic setting, geological setting of the
23 environmental setting of those areas were separate
24 from the eastern part of Long Island Sound.

1 So modification was made to reduce the
2 zone of siting feasibility. That particular
3 modification does not preclude consideration of the
4 comprehensive range of alternatives that Drew just
5 also mentioned within the three areas of Long
6 Island Sound.

7 Also, important to note is that the
8 review of the eastern region of the Sound and the
9 potential for designation of sites in that portion
10 of Long Island Sound was deferred to a supplemental
11 EIS that will be prepared at a future date.

12 This slide shows the original zone of
13 siting feasibility, which extended from the
14 Block Island, Rhode Island area, westward to the
15 Hell's Gate area within New York, the New York
16 area. The modified zone of siting feasibility
17 extended across the Sound from Mulberry Point,
18 Guilford, Connecticut to Mattituck Point in New
19 York. And so it is this area that was considered
20 further in this Draft EIS.

21 In order to identify the alternative
22 sites to include in the EIS, a process of applying
23 geographic information system data layers was
24 developed. This is a spacial representation of the

1 information that was collected. That information
2 was categorized and guided by the screening
3 criteria for site designation that is included in
4 the Marine Research and Sanctuaries Act. There are
5 five general and 11 specific criteria that the
6 regulations require to be examined and addressed.

7 In addition to that, the working group
8 and other input helped develop site evaluation
9 factors that tuned even further the evaluation that
10 was seated underneath the criteria. In order to
11 facilitate that process, those criteria and that
12 information was prioritized into two tiers. The
13 first tier ruled out areas that were not acceptable
14 for placing in ocean disposal -- or open water
15 disposal site.

16 In Tier 2, specific sites were
17 identified in the remaining area that were further
18 evaluated in the EIS. So that site allowed -- that
19 tier allowed further evaluations of the remaining
20 areas, as I indicated.

21 Tier 1 areas were ruled out on the
22 basis of the stability of the area, the feasibility
23 of making measurements and monitoring areas with
24 conflicting use were ruled out, such things as

1 utilities, conservation areas. Also ruled out were
2 shellfish areas, interference with navigation,
3 those locations within navigation areas that a site
4 would interfere with the movement of vessels,
5 valuable marine habitats were also excluded, and
6 the last piece that was exclusionary in Tier 1 were
7 areas of high dispersal, that is areas where the
8 material that was deposited or placed at these
9 locations would remain. The desire was to have
10 those remain in that location rather than be
11 distributed. So areas of high dispersion potential
12 were, in fact, eliminated from the process.

13 In Tier 2, that process, that set of
14 evaluations focused on minimizing impact to such
15 things as archeological resources, fish habitats,
16 fish productivity, other living resources, the
17 benthic community, and also shellfish and finfish
18 resource areas.

19 Also considered in the process of
20 identifying those locations that would be carried
21 forward into the EIS were the contaminants and
22 texture of sediments in these sites. And lastly,
23 historic disposal sites were included as part of
24 the screening.

1 Through that process, described in the
2 EIS, in the information presented there, the EPA,
3 the Corps of Engineers and cooperating agencies
4 identified four locations to carry forward into the
5 EIS. Two of those are existing dredged material
6 disposal sites, the Western Long Island Sound site
7 and the Central Long Island Sound site. And two of
8 those are former dredged material disposal sites,
9 specifically, Bridgeport and Milford.

10 The location of those sites are shown
11 on this figure, again, CLIS, WLIS, Bridgeport and
12 Milford.

13 It was also determined during that
14 process that the Milford and Bridgeport sites did
15 not have sufficient data to do a comparative
16 analysis; and therefore, a field program was
17 established in the summer of 2002 to examine such
18 factors as sediment chemistry, benthic community
19 structure, sediment toxicity, habitat and sediment
20 characteristics, topography and historic usage of
21 those sites, lobster resources. Factors were all
22 put into the field program where data was
23 collected. That data collection was completed in
24 August of 2002. And that data with everything else

1 that was collected that Drew talked about was used
2 to, in fact, compare the four sites and included in
3 that comparison then was the No Action Alternative
4 that is described in the EIS.

5 The EIS has a number of chapters.
6 Briefly, the introduction, which goes over the
7 history and scope of the EIS; Chapter 2, the
8 purpose and need; chapter 3 is a description of the
9 screening process and the alternatives selected.
10 It also has a summary statement of the preferred
11 alternatives and the rationale for selecting those
12 preferred alternatives.

13 Chapter 4 describes the affected
14 environment to include Long Island Sound and the
15 specific alternatives that were evaluated both
16 ecological, biological, physical information as
17 well as socioeconomic information was evaluated and
18 was described.

19 Environmental consequences provides a
20 description of the general consequences of dredged
21 material disposal. It then also discusses the very
22 specific site information in terms of consequences
23 for selecting or choosing one of those sites. It
24 also then includes more detail on the rationale and

1 reasons for selecting the recommended preferred
2 alternatives prepared that are in the EIS.

3 Chapters 6 through 10 provide
4 information that is required in an EIS: The
5 environmental statutes, executive orders,
6 memoranda, the public involvement, how the public
7 is brought into the process, representatives, those
8 who participated in the preparation of the EIS and
9 a list of agencies and organizations and
10 individuals to whom this Draft EIS was sent to.
11 There are a number of appendices of EIS.
12 Specifically, I would draw your attention to the
13 site management and monitoring plans that are
14 included in Appendix J. There is one for each of
15 the sites.

16 These are the locations of the two
17 preferred alternatives that are brought out in the
18 EIS, WLIS and CLIS.

19 The reasons for recommending these
20 particular preferred alternatives, WLIS and CLIS,
21 were found to have the least potential for
22 environmental and economic impact. There was
23 potential for impact that could not be mitigated at
24 both Bridgeport and Milford; and therefore, they

1 were not carried forward as preferred alternatives.
2 And the No Action was not carried forward, because
3 of the potentially greater environmental impact as
4 well as economic impact doing -- taking no action.

5 During the review, a number of things
6 came up as the process was coming to closure for
7 this Draft EIS that needed to have a slight
8 reconfiguration of the site in order to address
9 those points that came up.

10 The reconfiguration that I'm going to
11 show you in a second does not, in fact, change any
12 of the conclusions that were drawn regarding the
13 sites. Quite frankly, it was just a simple
14 movement of the sites to avoid an area of showing
15 for WLIS on this side and move the site to the
16 north and to the west a few hundred feet to a
17 thousand feet to the west. Note that also WLIS
18 encompasses historic dredged material disposal
19 mounds that have, in fact, been placed in the
20 currently configured WLIS.

21 For CLIS, the modification included
22 moving the eastern boundary to the east slightly
23 and the northern boundary to the north,
24 specifically to encompass two former -- two mounds

1 that are there from projects that were completed in
2 the past. The concept there was to bring all
3 mounds that had been deposited in this area within
4 one of the boundaries of this particular site.

5 The EIS schedule that has been
6 indicated, the comment period has been extended to
7 November 17, 2003. All comments, written and oral,
8 will be reviewed by the Corps and EPA. Based on
9 those comments and what you have -- what has been
10 placed in front of you now, the final EIS will be
11 prepared, and responses to comments will be
12 included as an appendix in the EIS. Once that is
13 completed, the final ruling will be issued in the
14 Federal Register, followed by a 30-day comment
15 period. The publication of the Record of Decision
16 will occur then. That will lead -- then bring to
17 conclusion the process of and decision regarding
18 the site designations that we're speaking of
19 tonight.

20 That concludes our presentation. I
21 thank you for your attention. And I'll turn it
22 back over to the Moderator.

23 MODERATOR ROSENBERG: Ladies and
24 gentlemen, it is crucial to this public process

1 that your voice is heard, and we're here to listen.
2 We are here to listen to your comments, understand
3 your concerns, and to provide you an opportunity to
4 put your thoughts on the record should you care to
5 do so.

6 You know, as a direct result of having
7 these types of open processes, we have been able to
8 overcome many of the difficulties that other
9 agencies face when performing activities, directly
10 or indirectly affecting the environment and the
11 quality-of-life issues that surround such
12 activities. Once again, we stand before you asking
13 for your expertise to help us seek solutions so
14 together we can identify, evaluate and build a
15 process that seeks solution.

16 Although we are here today continuing a
17 long tradition and a long process for the
18 designation of dredged material disposal sites in
19 Central and Western regions of Long Island Sound,
20 we do need your participation throughout the entire
21 process. And once again, I thank you for
22 contributing to this extremely worthwhile
23 incentive.

24 This hearing will be conducted in a

1 manner that all who have the desire to express
2 their views will be given an opportunity to do so.
3 To preserve the right of all to express their
4 views, I ask there be no interruption.

5 Furthermore, in order to make any
6 decisions regarding the designation of dredged
7 material disposal sites in the Central and Western
8 regions of Long Island Sound, we, the Environmental
9 Protection Agency and the United States Army Corps
10 of Engineers, once again need to have you involve
11 yourselves in this environmental review and not
12 just during this hearing, but throughout the entire
13 process.

14 When you came in, copies of the Federal
15 Register notice and the procedures to be followed
16 at this hearing were available. If you did not
17 receive these, those are available at the
18 registration desk at the entrance to this hall.

19 I will not read either of the
20 procedures or the Federal Register notice, but they
21 will be entered into the record.

22 A transcript of this hearing is being
23 prepared, and the record will remain open, and
24 written comments may be submitted tonight or by

1 mail until 5:00 p.m. on November 17th, 2003. All
2 comments receive equal consideration.

3 Anyone you know who cannot attend, but
4 still wishes to send written comments, should
5 forward those comments to Ann Rodney at EPA's New
6 England Region Office in Boston, Massachusetts.

7 Lastly, I would like to reemphasize
8 that the government has made no final decisions
9 with regard to this project. It is our
10 responsibility to fully evaluate the impacts of
11 designating dredged material disposal sites in the
12 Central and Western regions of Long Island Sound
13 prior to that government decision. And in order to
14 accomplish that, we need your -- your input.

15 Again, we are here to receive your
16 comments, not to enter into any discussion of those
17 comments, or to reach conclusions. Any questions
18 you have should be directed to the record and not
19 to the individuals on this panel.

20 Sir, if there is no objection from the
21 Hearing Officer, I will now dispense with the
22 reading of the Federal Register notice of this
23 hearing and have it entered into the record.

24 HEARING OFFICER COTE: No objection.

1 MODERATOR ROSENBERG: Thank you, sir.

2 A transcript of this hearing is being
3 made to assure a detailed review of all comments.
4 A copy of this transcript will be available at the
5 EPA office in Boston, Massachusetts, at the Corps'
6 New England District Office in Concord,
7 Massachusetts for your review. It will also be
8 added to the website for your use, or you may make
9 arrangements with the stenographer for a copy at
10 your expense.

11 Individuals speaking this evening will
12 be called to the microphone in the order they
13 signed in and as provided for in our hearing
14 protocol that was distributed in the reception
15 area.

16 When making a statement, please come
17 forward to the microphone, state your name and the
18 interest you represent; and as provided for in the
19 hearing protocol for this hearing, all speakers
20 will be provided three minutes to speak. No more.

21 That traffic signal will indicate the
22 following: The green light will come on; it
23 indicates two minutes remain; the amber light comes
24 on indicating one minute; and, of course, when the

1 red light comes on, the time has expired.

2 Please identify if you're speaking for
3 or representing a position of an organization; or
4 if you speaking for yourself, please say so. Now I
5 want to emphasize again that all who wish to speak
6 should have an opportunity -- will have an
7 opportunity to do so.

8 We will now receive your comments
9 according to those protocols.

10 At this time, no one in this room has
11 signed up to provide comment.

12 Is there anyone in this auditorium that
13 wishes to provide comment on the record at this
14 time?

15 Ladies and gentlemen, we have been here
16 with this hearing since 1:00 p.m. today. At this
17 time, I would like to intro -- reintroduce, Mr.
18 Cote -- I'm sorry -- it's been a long day. I would
19 like to reintroduce Mel for the closing remarks.

20 HEARING OFFICER COTE: Thank you.
21 Okay.

22 Well, um, we haven't heard a great many
23 thoughtful statements today. Maybe we will
24 tomorrow in Stamford. Again, written statements

1 may be submitted to the Environmental Protection
2 Agency or the Corps of Engineers until
3 November 17th, 2003. The comments will receive
4 equal consideration with those presented today.

5 We, at the Environmental Protection
6 Agency and at the Corps of Engineers, extend our
7 appreciation to all who took the time to involve
8 themselves in this public review process, and that
9 process as we described goes back several years
10 now.

11 And finally, before I conclude this
12 hearing, I would like to extend my appreciation to
13 the State University of New York at Stony Brook for
14 the use of this fine facility and the police and
15 security support. And I would like to thank you
16 all for taking the time to provide us with your
17 thoughts, your comments and your concerns.

18 Good night.

19 MODERATOR ROSENBERG: Good night.

20

21 (Whereupon, at 8:02 p.m., the hearing
22 was adjourned.)

23

24

C E R T I F I C A T E

I, Marianne Kusa-Ryll, Registered Merit
Reporter, do hereby certify that the foregoing
transcript, Volume I, pages 1-155, is a true and
accurate transcription of my stenographic notes
taken on September 30, 2003.

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Marianne Kusa-Ryll, RMR